



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4105450/2023, 4105599/2023 & 8000371/2024

**Held in Glasgow on 4, 5, 6, 9, 10, 11, 12 and 13 December 2024
and 20, 21, 22 and 23 January; 13 and 14 March 2025
With submissions on 2 April 2025 and members' meeting on 22 May 2025**

**Employment Judge M Robison
Tribunal Member I Ashraf
Tribunal Member W Muir**

Ms R Ihsan

**Claimant
In Person**

Renfrewshire Council

**First Respondent
Represented by:
Mr J Anderson -
Advocate**

Mr P Long

**Second Respondent
Represented by:
Mr P Deans -
Solicitor**

Ms R Provan

**Third Respondent
Represented by:
Mr P Deans -
Solicitor**

Mr A Dick

**Fourth Respondent
Represented by:
Mr G Cunningham -
Advocate**

Ms L Gibson

**Fifth Respondent
Represented by:
Mr P Deans -
Solicitor**

Ms M Lagan

**Sixth Respondent
Represented by:
Mr P Deans -
Solicitor**

Ms L Gardiner

**Seventh
Respondent
Represented by:
Mr P Deans -
Solicitor**

Ms N Maynes

**Eighth Respondent
Represented by:
Mr G Cunningham -
Advocate**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Employment Tribunal is that the claims are not well-founded and are dismissed.

REASONS

Introduction – issues for determination

1. The claimant, a teacher, lodged a claim on 28 September 2023 for discrimination because of religion or belief, race, sex and disability against her employer, the first respondent, and six additional respondents, who were teaching colleagues. She lodged a second claim on 5 October 2023, adding two further individual respondents, namely John MacDonald and Nicola Maynes. Following her resignation on 27 March 2024, the claimant lodged a further claim against the first respondent, claiming constructive dismissal. The three claims were subsequently combined. The claimant withdrew the claim against John MacDonald, so it proceeds against the other six teacher respondents, as well as her former employer, the first respondent.
2. Following a hearing on disability status, the claimant's claims for disability discrimination were dismissed, by judgment issued 11 November 2024. On 26 November 2024, the claimant made an application to "relabel" the disability discrimination claims as claims for discrimination because of race and/or religion, and to add a claim for whistleblowing. That

application was refused for reasons set out in a response from the Tribunal dated 29 November 2024.

3. This final hearing therefore considered the claimant's outstanding claims of discrimination related to race, religion and sex, as well as constructive unfair dismissal.
4. A final list of issues, extending to 14 pages, was extensively referred to during the course of the hearing. It alleged 81 detriments to support the claimant's claims of direct discrimination on grounds of race and/or religion. The claimant also claims indirect discrimination and harassment related to race/religion relying on similar facts, as well as victimisation. She claims sexual harassment in regard to some incidents. She relies on these allegations too to support her claim for constructive unfair dismissal. The respondents also relied on time bar in respect of some of the claims. The specific issues for determination are identified throughout this judgment.
5. It had previously been determined that this hearing would deal with liability only, with the remedy question to be deferred, as appropriate.

Witnesses

6. The claimant gave evidence over seven and a half days. Then the following witnesses were called by the first respondent: Kirsty Chiappa, Mark Smith, Julie Gillespie, Barry McKenna, Mark Irvine, Mhairi Taylor and Pauline Crean, all teachers who worked at Park Mains High School (PMHS) with the claimant, as well as John MacDonald, a technician and Elspeth Chisholm, Felix Haggerty and Linda Mullin, who are HR officials with the first respondent. Then the eighth respondent, Nicola Maynes, deputy head teacher, gave evidence, followed by Claire O'Donnell and Colin Chambers, who are also teachers.
7. During the second tranche of dates in January 2025, the Tribunal heard evidence from the fourth respondent, Alan Dick, the head teacher. The second respondent, Peter Long, faculty head of the biology department, and the fifth respondent, Linda Gibson, a teaching colleague of the claimant, were then called.
8. The hearing of evidence was due to conclude on Friday 24 January 2025 but had to be postponed because of Storm Eowyn. Fortunately, spill over/submissions dates had already been identified as 13 and 14 March 2025, but the first additional date to replace the lost day was 2 April 2025, which was allocated for submissions.
9. On 13 and 14 March 2025, the Tribunal heard from the remaining three respondents, namely Laura Gardiner, the seventh respondent, Mairi Lagan, the sixth respondent and Rachel Provan, the third respondent, all teaching colleagues of the claimant.

10. Following the hearing on 2 April 2025, when the Tribunal heard oral submissions from all parties in response to written submissions previously exchanged, the Tribunal met for a members' meeting on 22 May 2025 before finalising this judgment.

Documents

11. Two main joint folders of productions were lodged, totalling around 1,400 pages. A supplementary folder was lodged by the fourth respondent on or very shortly prior to the first day of the hearing. Likewise the claimant lodged supplementary documents. It was understood that the claimant's supplementary folder contained mainly documents which were already lodged in the main folders, but with the redactions removed.
12. It was agreed at the outset of the final hearing in the interests of efficiency to deal with any objections to any document lodged latterly during the course of the hearing. During the course of the hearing, a second and then third supplementary bundle was lodged by the fourth respondent.
13. During the course of the first tranche of hearing dates, the claimant made reference to additional documents which she believed were relevant. She was invited to make a request for any specific document referenced during the course of the hearing to be produced. No request was made for the production of any specific document by the claimant until the end of the first tranche of hearing dates when the claimant again made reference to additional documents that she wanted produced.
14. The claimant was invited to thereafter make a voluntary request for any specific documents which she knew or believed to exist. In the event that the first respondent did not agree to produce them, then she was advised to make a formal application for an order.
15. There was some delay in the voluntary request being dealt with (given the time of year). By the time the hearing resumed on 20 January 2025, there were still 27 categories of documents being requested by the claimant which the first respondent had not been willing or able to produce. The claimant reflected on her position overnight and her application for documents was dealt before the hearing recommenced on the second day of the second tranche, that is 21 January 2025.
16. After hearing submissions from the claimant, and objections from the respondents, and following an adjournment, the Tribunal advised that the claimant's application for documents, as listed in the table referenced, was refused. This was primarily because these documents were broadly the same as those in respect of which previous applications had already been refused. In particular, the claimant's application for around 27 categories of documents to be produced had been refused on 25 November 2024, a decision which was confirmed on reconsideration on 29 November 2024.

17. This application was refused because it was essentially another request for the same broad categories of documents, but also because the application was made after the claimant and fifteen of the respondents' witnesses had given evidence. The claimant seemed to think that such documents could simply be lodged to support her position, and that no witnesses would need to be recalled, but she did not appreciate that the documents would have to be spoken to by witnesses.
18. The claimant had added a 28th document to her table of documents. It was apparent that this was a specific document in the form of an e-mail which she believed to exist. After an extensive search, the first respondent was unable to locate such a specific e-mail. The claimant realised that the e-mail she had in mind was in fact already lodged and had been referred to during the evidence of Linda Mullin.
19. That day, 21 January 2025, the claimant also asked for several documents from the file of productions lodged for the disability status hearing to be included with the documents for this hearing. There was no objection to that, beyond a query about their relevance, but in the end there was no need to refer to them.

Reasonable adjustments

20. Prior to the hearing on disability status, the claimant made an application for reasonable adjustments during the hearing. Given objections from the respondents, the Employment Judge considered that application and intimated her conclusions to parties on 9 October 2024. The claimant's applications for an appropriate chair and to request frequent breaks during the hearing were granted. The claimant's subsequent requests for a transcript of the hearing at public expense were refused by the Vice President.

Findings in fact

21. On the basis of the evidence heard, the Tribunal finds the following relevant facts agreed or proved.
22. The claimant is a person of colour and of Pakistani ethnic origin. She is a practising Muslim. Her faith is important to her way of life. She wears a hijab. She observes modesty in her attire and interactions. She prays throughout the day. She observes religious fasts and holidays.
23. The claimant is a biology and general science teacher, who was employed by the first respondent from 15 August 2010 (except for short periods in 2012/13 and 2018) until her resignation effective 29 February 2024. She was permanently employed at Park Mains High School (PMHS) from October 2019, working Monday to Thursday. PMHS is a secondary school with approximately 1,500 pupils, 102 teachers, and 40 support staff and 5/6 deputy heads.

24. The claimant was a member of the NASUWT. When she commenced permanent employment at PMHS, her union caseworker contacted Linda Gibson (the fifth respondent), a teacher at PMHS, who was a national representative for the union. She asked her to “look out for” the claimant “because she’d had a hard time”. Linda Gibson was very happy to do so, and took that responsibility seriously. However, she did not believe there would be any problems because the cohort of staff was “one of the nicest groups of people [she] had ever worked with”.
25. The faculty head in the biology department is Peter Long (the second respondent). He would very regularly give advice and support to teachers in the department, including the claimant. The type of concerns the claimant raised with Peter Long were however “unique”, that is she would come to him with concerns about how she was treated or spoken to by other members of staff.
26. While relations between biology colleagues and the claimant were positive initially, Peter Long had increasingly to deal with regular complaints from the claimant about the tone, body language and choice of words used by other members of staff towards her. He sought, unsuccessfully as it transpired, to help and support the claimant by trying to get her to see situations from the viewpoint of the other teacher and to try to get her to be more reflective about how her actions impacted on other members of staff.
27. The claimant also came to Peter Long for advice about how to deal with certain interactions with pupils. This resulted in him requiring to mediate with pupils as well as staff.
28. In 2021, the claimant commenced an online training course through Education Scotland called Building Racial Literacy (BRL). This was prompted by an incident, in or around late 2019, when a pupil made a derogatory remark about the way that the claimant was dressed. This was dealt with as a pupil disciplinary and restorative incident by Steven Wilson, deputy headteacher, who was the link between the science faculty and senior management team (SMT).
29. The claimant undertook the BRL training with the approval of the then head teacher and subsequently with the approval and support of Alan Dick (the fourth respondent), who had joined the school as head teacher in August 2021. The course generally involved embedding anti-racism, de-colonialism and diversity into the curriculum, including developing an action plan which was shared with Education Scotland and had the approval of the head teacher. The claimant was thereby tasked with leading anti-racism activism and rolling out interfaith multicultural activities in the school with a view to implementing the action plan. One such activity introduced by the claimant was the “GEEK” society, which consisted of lunch-time meetings lead by the claimant and initiatives such as Islamophobic awareness.

30. As part of the action plan, towards the end of 2021, the claimant proposed a cultural diversity day (CDD) and she discussed this with colleagues, including Steven Wilson. The theme of remembrance day was identified as appropriate and the event was to take place in or around November 2022.
31. The claimant wrongly believed that following her involvement in the BRL programme, other staff changed their attitude towards her and conspired to influence others in the department to do so. She wrongly believed this related to her race and/or religion. The claimant relied on certain incidents to support her mistaken belief, as set out below. The claimant raised most, if not all, of these concerns with Peter Long.

Miscellaneous incidents January 2022 to April 2022

32. On 23 February 2022, the claimant sent the following e-mail to Peter Long:
 “Hi Peter, can you please discuss the following matters at the next DM [departmental meeting]:
 1. How long is previous/used apparatus etc left in everyone’s rooms before the technicians are taking these away. I have had things that have been sitting there for weeks before they are removed and still have dirty beakers sitting there since before the February weekend 2. [blank]
 3. Can everyone in Biology please be made aware of the roles and responsibilities of other Biology staff? I am concerned about the favouring/prioritizing of certain staff over others when it comes to departmental duties/responsibilities and the extent these are offered to some and not all.
1. My reasons for point 2 [3] are below:
 1. Today I asked Kirsty for prelim papers so I could start marking and she said she’d already told Rachel to pass me mine. I asked Rachel for these and she said she’ll bring them round to explain something to me – you already did this. She was teaching periods 1 and 2 and only brought them along after I asked for them – I was off period 1 and planned to mark these during that time but now have to do it later.
 1. Rachel did not inform me she planned on revamping the inheritance topic which I had already started teaching; I had to take out time to look over it again to find out what had been changed. Re the in-service day, where she was having a meeting to organise departmental development with Kirsty, I felt there was an awkward silence and they were waiting for me to leave the room before they continued – I was in school and available, so could have been part of this discussion too. You mentioned their ‘to do’ list at the DM after I mentioned another resource needs to be updated. Kirsty has since spoken to me about this after I told you I felt excluded.
 2. I’m also not sure why Rachel has been handed over a lot of departmental duties which has on a few occasions led her to attempt to ‘correct’ and ‘question’ me on

what I am doing with my classes, as though she is my PT. My concern here is that like me, she is a classroom teacher but, she is being offered opportunities/duties which I have not been despite expressing my interest in the past. Re points 1 and 2, I'd appreciate it if you would not indicate who has raised these issues.

Another thing I was to inform you about, this Monday at break I asked Mairi how many of the SN5 pupils were in and did their test. She replied that I asked her to do it with them 'a week on Friday' and that she even read out my email to the class as they were expecting to do the test that day. I told her it was for this week and that I'll check my e-mails again but she laughed at me mockingly and repeated what she had said. I checked my emails and confirmed with her it was as I had said. Other staff were present and if both students were there too, then this would have been a very uncomfortable situation".

33. Peter Long was concerned when he received this e-mail because he was of the view that it was not the role of the claimant to tell him what to do at departmental meetings. He was concerned that this was yet another complaint following a long history of complaints by the claimant about her colleagues. He was concerned that this was becoming personal despite all his efforts to improve the claimant's personal skills when dealing with colleagues.
34. Notwithstanding, he raised these matters at the departmental meeting. Although he did not name the claimant as she requested it was clear to other staff who had asked him to raise the matters. They in turn made complaints about how the claimant had spoken to them.
35. Peter Long then investigated these issues by speaking to the claimant, to Mairi Lagan (the sixth respondent), to Rachel Provan (the third respondent) and to Kirsty Chiappa. He did not accept the validity of the claimant's complaints.
36. On the matter of the prelim papers, the claimant had requested these of Rachel Provan when she was teaching a class. She advised she would bring them to her when she was free, with guidance about marking. The claimant was unhappy about being given that guidance because she had already been advised of the issue by Peter Long.
37. Regarding the failure of Rachel Provan to tell the claimant about having updated a topic, it was not uncommon for teachers to make changes to live documents with a view to updating them but without consulting other teachers.
38. Regarding the claimant's complaint about Rachel Provan and Kirsty Chiappa excluding her from a discussion about biology classes/curriculum, having spoken to both, Peter Long's view was that this was a normal conversation that the claimant had stumbled upon and there was no expectation or requirement that the claimant would be involved.

Likewise, Rachel Provan did not exclude the claimant during a discussion with Mark Smith (on 20 January 2022) regarding cover for classes due to staff absences.

39. Peter Long did not accept that certain staff were prioritised or favoured. Regarding complaints about Rachel Provan being handed duties and micromanaging the claimant, he put the claimant's mistaken perception down to the fact that Rachel Provan was a hardworking member of the department who would proactively seek out opportunities and volunteer for tasks. While the claimant would volunteer for some opportunities she was not as proactive as Rachel Provan in seeking them out. Regarding concerns about her mistaken perception about others being, or being treated as, superior to her, Peter Long's view was that Rachel Provan would act in the same way with other colleagues, and that this was a demonstration of her being collegiate.
40. In regard to the claimant's complaints about the interaction with Mairi Lagan about a test for a class which they shared, this related to a misunderstanding about the date of the test. Mairi Lagan made attempts to resolve the matter but the claimant was not cooperative. This incident contributed to a further breakdown of relations between the two, which were already strained by this time.
41. On 25 April 2022, the claimant e-mailed Alan Dick to discuss "some of my ideas for the following: 1. Multicultural project – I have come up with a series of lessons which could follow on from the Remembrance event. 2. ASN – GTCS have said I have up to 3 years to complete my hours for this, I'd like to discuss ideas/opportunities with you. 3. BRL leadership training – an opportunity has come up for training to lead future cohorts on the Building Racial Literacy programme I have completed with Education Scotland. I would like to discuss this with you as I am interested in the role". Alan Dick responded positively to these proposals.

BGE skills courses

42. Towards the end of April 2022, Peter Long agreed, following a request from Rachel Provan, that she could roll out a broad general education (BGE) skills development course which she had been working on with her own class. The claimant advised Peter Long that she was interested in assisting and he told her to speak directly to Rachel Provan, but she did not.
43. Subsequently, Rachel Provan was successful in obtaining a project leader role and needed assistance taking forward the BGE skills development course. When Peter Long asked at a departmental meeting for volunteers, only a supply teacher offered, and she assisted Rachel Provan with the project for a short period. The claimant did not volunteer at that meeting.

44. The claimant subsequently had a long meeting with Peter Long to discuss concerns about this. Peter Long became frustrated because the claimant had not put herself forward but berated him about the way he had approached the issue and his management style more generally.
45. As part of the claimant's contribution to the BGE skills development course, on 5 May 2022 the claimant shared files with Peter Long and Rachel Provan based on work she had done in a previous school. Subsequently the folder containing this file and others became "corrupted" which meant that the claimant was unable to gain access to them.
46. The claimant raised this matter with Steven Wilson and she suggested that "the timing was not a coincidence". She advised that she suspected Peter Long had been involved in corrupting the files because he was "good with IT" and did not want her to be involved in the BGE skills project. She asked Steven Wilson to check the CCTV to see if someone had gone into her room and interfered with her files. With assistance from an IT technician, some files were recovered, although not the whole folder. The claimant believed that this was a deliberate attempt to exclude her or sabotage her work on this project. Neither Peter Long nor Rachel Provan had any involvement in the "corruption" of the skills folder.
47. In or around May 2022, Linda Gibson had a discussion with Peter Long about integrating biology into the S1 science course which she lead. She then spoke with the claimant who indicated that she was interested in assisting. Linda Gibson expressed reservations about the relevancy of a proposal made by the claimant to add a link between anti-racism and UV light, which she considered was more relevant to another course unit. Thereafter the claimant advised her by e-mail that she no longer had time to assist her.
48. In or around 9 May 2022, the claimant complained to Peter Long following an interaction with Mairi Lagan about lessons taught to a shared class and resources used. Mairi Lagan was confused about how the situation had come about, but apologised on hearing the claimant had believed her to be confrontational.
49. Following these incidents, on 16 May 2022, the claimant approached Linda Gibson, as a union representative, and discussed concerns she had: about the meeting with Peter Long on 5 May 2022; the incident with Mairi Lagan; and about the BGE skills documents ICT issue. In an effort to resolve matters, Linda Gibson suggested that the claimant could take the matter up with the SMT link, Steven Wilson, who could act as an informal mediator. Linda Gibson raised with her the fact that interpersonal relationships are the responsibility of both parties and explained to the claimant that it was apparent that the claimant found it difficult to look beyond herself and her own experiences. She urged her to look at the impact she was having on other people.
50. On 20 May 2022, Alan Dick informed the claimant that he was happy to support her application to attend a training initiative called improving our classrooms.

51. While the claimant had the least experience of teaching higher biology in the department, Peter Long was aware of the claimant's expectations and decided to allocate her a higher class, which he accepted was challenging.
52. On 7 June 2022, the claimant complained to her union about these events. She complained in particular that after she had spoken to Steven Wilson about interference with her files he said he would speak to Peter Long and Alan Dick. Her e-mail continued, "The following week my FH and the depute didn't look pleased when they saw me so I'm assuming the HT had a word with both of them. That week, at the end of a project meeting my HT enquired about the issue and shrugged it off in a mocking manner while repeating he didn't think anyone would do such a thing....Linda also tried to speak to me about the interaction with my FH and told me to tell him about another colleague snapping at me. Then the conversation changed direction where she started telling me I may have caused staff to behave towards me in certain manners. Ironically, as she was advising me how to end conversations appropriately – something I already explained I was able to do – she laughed at me and walked away when her account of a previous situation involving her did not match mine. Things are a bit more normal in my relationship with my FH – apart from him telling me today that I may have done something to cause the HT to go cold on me when I said I felt that way....I am also concerned that after a discussion my FH has given me a Higher class as requested, but one that has pupils who are expected to perform poorly. This happened last year too and I feel I would like this raised".

School trip/probationer incident June 2022

53. On 21 June 2022, the claimant made allegations to Peter Long about what she considered to be disrespectful and unprofessional conduct of a probationer teacher (Fiona Keating) during a staff meeting to discuss a forthcoming school trip which the claimant was organising. Peter Long raised that matter with the probationer.
54. On 23 June 2022, during the school trip, the probationer sent "update" texts about the claimant to chemistry colleagues who were on another school trip, complaining that she was being belittled and not respected by the claimant. Peter Long was advised of this at the time by the chemistry teachers.
55. The claimant complained about this to Peter Long. She believed that the probationer's version of events was taken more seriously by Peter Long before her version was heard. Peter Long spoke to the claimant about this, expressing concern about the fact that she had reported issues with many different staff. He said that he had attempted to resolve the issues between the claimant and other staff but had been unable to reach a resolution. He suggested to the claimant that she should speak to the Head Teacher about any future concerns.

56. In or around June 2022, the claimant discussed with Alan Dick progress in relation to the cultural diversity day (CDD) which was due to take place in November that year. Alan Dick was very supportive of the broad premise of the proposal and welcomed the opportunity to embed the relevant themes into the school curriculum. However, he told the claimant that, because it was a busy time of year, based on his experience, it was not the right time to reach out to staff to ask them to start work developing this project.
57. By the end of term 2022, the claimant believed she was being isolated or excluded from social and other events being organised by the science department. She was however not ignored when she called out “happy holidays” to colleagues because they did not hear her. No social events were held by the biology department. There was a whole school invite to an end of term drinks event on 28 June 2022. Because the claimant prefers not to attend events where alcohol is served, she decided to propose an alternative lunch for the last day of term. This was also advertised by the whole school social convener. None of the science department attended the alternative lunch because for various reasons it did not suit them.

Discussions regarding nudity

58. On or around 31 August 2022, during a conversation between Laura Gardiner and a PE teacher and several other teachers, the subject of a mainstream TV programme Naked Attraction was raised, and body parts were discussed. The claimant overheard this conversation. Laura Gardiner was not aware that the claimant was in the room at the time.

Atlas of Creation incident (AOC incident)

59. On 21 September 2022, a conversation commenced in the science staff base regarding a book which had been moved with other resources from the old school building to the new in August 2012. The claimant was not present.
60. Curious about why such a large book would be on the bookshelves, Mark Smith brought it down and started to discuss the book with colleagues. This book was called the Atlas of Creation. He ascertained that the book was about creationism. This is not a subject which is taught in the science department.
61. Peter Long also perused the book. He also came to appreciate that the book was about creationist theories which challenged the theory of evolution and Darwinism, illustrated through pictures of fossils and animals. Peter Long was interested in the fact that it was clearly an expensive book of high quality.
62. Tom Wadham also perused the book, which he understood sought to disprove the theory of evolution. He ascertained by searching the internet that the book had been sent unsolicited to schools in Scotland and throughout the world.

63. Mark Smith and Julie Gillespie searched the author's name and it transpired that he had been imprisoned for sex crimes against children. It was also noted that the author was described as a "pamphleteer" and Barry McKenna, who was also present, found that amusing. The book was left on the table in the science base. Peter Long was intending to give consideration to whether it was appropriate for such a book to be retained in the school.
64. The next day, 22 September 2022, several members of staff, including Tom Wadham and Julie Gillespie, perused the book again. When the claimant came into the science staff base that day, she noted interest in the book. Julie Gillespie stated she thought it had no place in the school given the sex crimes of the author.
65. Tom Wadham noted a quote from Darwin, which along with Peter Long and Linda Gibson, was considered to be "disgusting" because they considered it to be racist. Peter Long decided that he should get advice about what to do with the book. He made "a throwaway" comment that such a large book could have been used as a doorstep.
66. Linda Gibson perused the book. She came across a picture of Hitler. She suggested that such a book should not be retained in the school. She was advised about the author and she was concerned that pupils would read it. She subsequently ripped up the book by removing the pages and disposing of them in the recycle bin. Because the cover was made of fabric she could not dispose of it in the recycle bin so she left it on the table in the staff base. The claimant was not in the room at that time.
67. When the claimant came into the room and saw that the book was destroyed, Linda Gibson said that she had destroyed it because she considered that it had no place in the school because of the racist content and the crimes committed by the author.
68. The book has Arabic writing on the front cover. It also has the holy seal of the Prophet Muhammad on the front cover, which is an Islamic religious symbol. None of the staff who were in the staff base who perused the book were aware of the religious symbol or of its significance. They were not aware of the author's religion and they did not discuss creationism as a religion or a faith.
69. Alan Dick heard about the AOC incident very shortly after, in passing, from Maria Whimpenny, the head of the chemistry department.
70. Linda Gibson became aware, after being informed by another Muslim colleague, that the claimant was very upset about the destruction of the book because of the holy symbol on the front cover. She explained to her how important that was to Muslims.

71. Linda Gibson met with Alan Dick to report the incident and explain that she had no intention to cause offence. She intended to have a conversation with the claimant about it because she was very concerned that she had caused offence.
72. The claimant contacted Alan Dick to express her concern and upset about the book being damaged. He contacted HR about the incident and they recommended that he should arrange a meeting with the claimant.
73. On 6 October 2022, the claimant and her trade union representative, Claire McInnes, met with Alan Dick about the AOC incident. Alan Dick advised that he had been told by a member of staff that the book made derogatory comments about black people. Neither the claimant nor her union rep were aware of the comments, so had a short adjournment to discuss.
74. During the meeting, the claimant went on to express concern that she was not getting the same opportunities as other colleagues. Alan Dick said that he disagreed and believed that he had facilitated many opportunities for her.
75. A note of that meeting was made by Alan Dick. He noted that several staff had already spoken to him regarding the incident and provided their perspective; the reason given for putting the book in the bin was the extremely racist remarks in the book; that the claimant had said the timing of the discussion related to her recent work on multicultural events across the school; that the claimant said that the symbol on the book was the Seal of the Holy Prophet Muhammad which is a sacred symbol of Islam; that the claimant described her upset at the book being put in the bin; the claimant said she felt unwelcome in her department giving examples; Claire McInnes commented that more concrete examples needed to be given and suggested that this should be discussed on another occasion outwith the current meeting.
76. Alan Dick decided that a formal investigation would take place, and the claimant and her union representative agreed that was the best course. He appointed Pauline Crean, deputy head teacher (DHT) to undertake that investigation.

Satanic Verses incident

77. Towards the end of October 2022, during a staff base discussion regarding books, Laura Gardiner asked for suggestions for a book to download on "Audible". Mairi Lagan stated that after she heard of the assassination attempt on the author Salman Rushdie she downloaded a sample of Satanic Verses intending to learn more about the circumstances. However, she did not find that to be the kind of book she would read so she read no further. She was not aware that the book had any connection to Islam until the claimant raised that. When she and others in the staff base appreciated from the claimant that the book was deemed to be offensive to Islam, they stopped talking about it.

78. The discussion was not preplanned and was not brought up to upset the claimant. Alan Dick had not spoken to Mairi Lagan or Laura Gardiner about the AOC incident prior to this, so they were unaware of it at this time.

Cultural diversity day

79. Since the cultural diversity day was to be a whole school event for S3, which is a major logistical undertaking, Alan Dick asked Mhairi Taylor, then DHT assigned to S3, to support the claimant.
80. Alan Dick and subsequently Mhairi Taylor in discussion with the claimant made certain changes to the initial proposals for the day based on their experience with a view to ensuring its success. For example, Alan Dick decided to change the format from “round robin carousels” which are difficult to manage with around 270 pupils off time table when space is a premium, with pupils instead staying in classrooms and lessons focused on the relevant theme. Ms Taylor re-organised the assembly and the planned film showing because of her experience of the pupils involved and the potential for misbehaviour.
81. The event was originally due to take place around remembrance day, but the date had to be changed because of the announcement of a school inspection. Mhairi Taylor also decided to change the date because the claimant was absent due to a family bereavement.
82. Colleagues in the biology department did not refuse to participate. Mairi Lagan does not work on a Tuesday, Laura Gardiner’s third year classes were being taught by probationers and Rachel Provan had no S3 classes that day.
83. In or around 23 November 2022, the claimant had a disagreement with Tom Wadham, a probationer who had assisted her with preparation for the event, when he expressed concerns that he had not known what was expected of him. When the argument got heated, Tom Wadham thought it best to retreat, but the claimant followed him into the science base to continue the argument.
84. Despite some concerns expressed by staff in feedback, the day was considered, by Alan Dick and others including Pauline Crean, generally to be a success. Alan Dick expressed thanks to the claimant and all staff involved in the HT Newsletter issued 5 December 2022. At a review meeting which took place on 17 May 2023, Alan Dick discussed the feedback, strengths, areas for improvement and next steps.

Further miscellaneous incidents November 2022

85. On 8 November 2022, Barry McKenna embarked on a conversation with the claimant about the Qatar World Cup.

86. In or around November 2022, Alan Dick introduced a “Colours Initiative” which was designed to celebrate pupil achievement. Alan Dick asked Colin Chambers, then leading the Aspiring Principal Teachers group, to select two individuals to assist Nicola Maynes in running that project.
87. In or around November 2022, Peter Long made a request for staff to update the BGE science celebrating success board in time for the school inspection. The claimant got permission from Peter Long to use a larger display board near Laura Gardiner’s room. The claimant asked Laura Gardiner where she had got the paper for the display board, and she advised her that Kirsty Chiappa had purchased it with her own money.
88. On return from bereavement leave in November 2022, which followed a previous recent bereavement, Peter Long said to the claimant “don’t take this the wrong way but how big a family have you got”.
89. In November 2022, the claimant complained about Rachel Provan advising her in front of pupils about the redevelopment of inheritance booklets.
90. On 29 November 2022, Mairi Lagan suggested a secret santa. There was insufficient interest from colleagues and accordingly no secret santa event took place that year.
91. It is standard practice for teachers to forward assessment folders from S3 pupils to teachers who have these pupils in S4. By late November 2022, the claimant had not forwarded the relevant folders to Laura Gardiner so she went to her class while she was teaching to retrieve them. The claimant said that she would take them later but forgot until prompted. Laura Gardiner raised this failure to follow standard practice informally with Peter Long.
92. Towards the end of 2022, an internal advert was circulated among chemistry staff to cover for Maria Whimpenny who was going on maternity leave. This was standard practice for covering maternity leave. Only one member of the chemistry department applied, who was successful following interview.

Further complaints November/December 2022

93. On 10 November 2022, the claimant e-mailed Pauline Crean, cc Alan Dick to advise of an incident when Barry McKenna spoke to her about Qatar and its stance on LGBT rights. This, she said, made her feel very uncomfortable because she thought he was trying to provoke some response from her. She linked this to posters which had been put up around the school about Islamophobia Awareness Month. She stated that she considered that this was the third incident in the space of two months when she had experienced covert Islamophobia in school. She concluded by saying that “I feel as I’m having to be careful

around people and I'm starting to feel unsafe; it is becoming more regular that this topic creeps into conversations I am having with my science colleagues".

94. On 17 November 2022, Claire McInnes sent an e-mail to Alan Dick expressing concern about these "incidents and comments which feed into the way Rabia feels in her department due to her faith characteristic of being a Muslim woman", adding a further incident. This was an allegation that Mairi Lagan had said, in regard to a conversation about which schools they had attended, of the claimant's school, "did that not used to be mainly white". She stated that "Rabia feels that incidents and comments demonstrate a pattern. She continuously feels that there are covert ways of the department signalling or displaying hostility towards her due to her faith and are best described as continuous micro-aggressions or passive aggressions. However, Rabia is acutely aware of them and they accumulate and impact severely over time". Reference was made to incidents which were historic in nature. She stated that "we would expect that these incidents and comments are looked at closely as part of the ongoing investigation. If you could please confirm how this will be managed, that would be most appreciated. One thing Rabia has suggested and we support, regardless of the outcomes of the investigations, is to have MEND (Muslim Engagement and Development) visit the school and deliver a presentation on Islamophobia...also presentation by a Peter Hopkins...if these proactive interventions could please be considered that would be very appreciated."
95. Alan Dick consulted HR who advised him that these new matters should not be considered alongside the initial issue being investigated by Pauline Crean.
96. By e-mail dated 21 November 2022, Alan Dick advised Claire McInnes that "due to the nature of the original complaint (and staff involved including NASUWT union members) and hence the subsequent investigation which is nearing completion, I am not comfortable with changing the scope by including these additional points. I will follow up on the other incidents below if Rabia would like me to. I will speak to Rabia about this today. Thank you for your continuing to support Rabia during this process. I am very aware of the impact this is having on Rabia and indeed the whole Science Faculty and I feel it is imperative we find a solution focused outcome as soon as possible".
97. In reply on 12 December 2022, Claire McInnes said that it was "essential that subsequent events were investigated as they were examples of what Rabia experiences as a pattern of behaviour. It would be most helpful if there can be implementation of the training/presentation on Islamophobia and address racial literacy in a proactive manner". Alan Dick in reply said that he would prefer to deal with the additional matters informally, but felt that Claire McInnes wanted a more formal response. He liaised with Linda Mullin for further advice on 15 December 2022.

98. On 19 December 2022, the claimant e-mailed Alan Dick to ask for his permission to be involved in an event with the Science Centre for British Science Week. He responded that the proposal “sounds great. It would be good to chat this through with you.”

Further miscellaneous incidents December 2022/January 2023

99. On one occasion, in or around December 2022, Linda Gibson had cause to repeat a “good morning” greeting because the claimant did not hear her the first time.
100. In or around December 2022, Peter Long during a conversation between himself and the claimant only, the claimant complained that end of term social events were not inclusive because they involved drinking alcohol. He asked the question “what’s wrong with drinking” to try to ascertain her approach to alcohol because he was aware of other colleagues who attended socials but who did not drink alcohol.
101. In addition to the science department Christmas night out at a bar and restaurant arranged by Mark Smith, Maria Wimpenny identified a night out which offered group games like darts, mini-golf, pool etc.
102. Around Christmas time, staff decorated their classroom doors. On occasion, staff would seek permission to use images of other staff, for example Mark Smith asked for eight volunteers to “lend” their faces to replace actors’ faces in movie posters. Laura Gardiner asked the claimant if she was agreeable to being included in her “naughty but nice” Christmas door display.
103. Often during departmental meetings in 2022 and 2023, Laura Gardiner would speak up in response to requests for contributions and feedback when other colleagues were slow or reticent in responding. She did not give feedback on behalf of others.
104. In January 2023, Kirsty Chiappa, who had volunteered to assist with departmental photocopying, was asked by the claimant if she had printed the higher tests yet. Kirsty Chiappa complained about this request to Peter Long, who reminded staff at the next departmental meeting that it was not Kirsty Chiappa’s job to undertake all printing and photocopying.
105. On 16 January 2023, the claimant e-mailed Peter Long to complain that biology staff had not used any of the S2 literacy/numeracy booklets she had developed. These booklets were however used by, for example, Laura Gardiner. Rachel Provan also used the claimant’s materials, for example for higher homework materials on immunology. She adapted the materials to align with changes that SQA had made to the course.
106. On 23 January 2023, Peter Long had a conversation with the claimant regarding outstanding prelim marking while she was teaching two pupils. She was the only biology teacher with outstanding marking and he enquired when it would be completed. There

was a misunderstanding between the claimant and Peter Long regarding when she was offering to have the marking completed. When outside the class room, the claimant accused Peter Long of being unprofessional for raising the matter in front of pupils. Peter Long became concerned when the claimant started to raise other issues with staff and he walked away. The claimant was upset and left school early that day. Peter Long made a note of the conversation.

107. A restorative meeting took place facilitated by Steven Wilson. Peter Long apologised for becoming frustrated and walking away. He agreed not to speak to the claimant while she had pupils in the classroom.

The outcome of the Crean investigation

108. Pauline Crean's investigation report was finalised on or around 20 December 2022, following interviews with the claimant, Mark Smith, Julie Gillespie, Peter Long, Tom Wadham, Barry McKenna and Linda Gibson.
109. This was a factual account of what happened. The report was submitted to HR by Alan Dick without a signature or a date and without a recommendation. Subsequently a member of staff in the HR department added that information, as well as a recommendation, "based on the information gathered it would be appropriate for these matters to be considered at a Stage 1 grievance hearing".
110. This was followed by an informal meeting with Linda Mullin HR on 16 February 2023, arranged at the request of the claimant and her trade union representative, Claire McInnes, because she was unhappy with the outcome of the Crean investigation. This was not a formal meeting under any council policy, but to look for solutions and a way forward. Notes were taken by an HR adviser at the request of Claire McInnes.
111. At this meeting Claire McInnes on behalf of the claimant recommended Gillian Neish, an external adviser. Linda Mullin made contact with her and she offered dates in April to conduct anti-racism training. The claimant did not however follow that up with Linda Mullin.

Toilet incidents

112. There is a toilet located between the physics and biology departments, just outside the classroom used (at the relevant time) by Linda Gibson. That toilet was an accessible staff toilet and not for the use of pupils except disabled pupils in an emergency.
113. An arrangement was made, prior to the claimant commencing at PMHS, that one teacher with a particular condition should get priority use of that toilet as a reasonable adjustment. Staff were aware that if they used that toilet they should not loiter. Linda Gibson informed the claimant when she started at the school of that arrangement. Subsequently, the disabled member of staff became concerned that someone, she believed the claimant,

was using the toilet for prolonged periods and Linda Gibson had a word with the claimant who was apologetic.

114. The claimant would use that toilet for ablution purposes, and she would use her classroom to pray.
115. On 20 February 2023, Linda Gibson became aware that three members of facilities management staff were waiting to access the toilet. One of the male members of staff said that they had called out and no-one had replied so he was going to force entry because it was assumed that one of the pupils had locked the door as a prank. Linda Gibson believed the claimant to be in the toilet and she called out on a number of occasions and eventually the claimant responded that the toilet was occupied.
116. The claimant raised her concerns about this incident in an e-mail to Karen Taylor, business services manager, on 21 February 2023. The matter then came to the attention of Alan Dick. He asked the claimant whether she was using the toilet for prayers, with a view to ensuring that she had an appropriate place to pray.
117. Subsequently two further incidents when the claimant complained about an unnamed person impatiently waiting to use that toilet were reported by the claimant to Alan Dick, including a third by e-mail to Alan Dick on 19 April 2023.

Subsequent interactions between claimant and colleagues

118. An informal Whatsapp group, to discuss both work and social matters, was created by the biology teachers around 2019 before the claimant started at PMHS. Peter Long was not included in that group. The claimant was not added until the Summer of 2020. In November 2022, Mairi Lagan decided to leave the group because she was concerned that the claimant misconstrued normal civil exchanges. Thereafter and particularly from January/February 2023, others left and the whatsapp group was used much less frequently. Around that time Peter Long had set up an official MS teams group to which all biology staff had access. The claimant mistakenly believed that another whatsapp group had been created by the biology teachers, from which she was excluded.
119. On 24 February 2023, Peter Long requested biology staff on the MS teams group to volunteer to share an active learning task at future meetings. Only the claimant responded on teams to volunteer. Rachel Provan and Micheal Irwin mentioned verbally to Peter Long that they were interested. Peter Long chose Rachel Provan for the first meeting on 23 March 2023 because he considered her active learning task to be the best, that Micheal Irwin's needed work and the claimant's was not so relevant. Rachel Provan did not ignore the claimant when discussing her active learning task, because she did not hear her call her name and the claimant did not discuss the matter with her after the meeting. Since the claimant did not get back to Peter Long to explain how she could make her task more

relevant, he chose Micheal Irwin at the next meeting on 3 May 2023 (which the claimant did not attend).

120. In March 2023, the claimant asked John MacDonald, school technician, to put beakers she had used in the dishwasher. He told the claimant she should wash them herself, because classroom teachers were responsible for cleaning their own glasswear. While teachers would ask for their glasswear to be cleaned in the dishwasher, it was not uncommon for that request to be refused by a technician. The dishwasher was used to clean particular items, and not others, and it would depend on the chemicals used. The particular beakers which the claimant asked to be cleaned in the dishwasher contained congealed oil which was not water soluble. The claimant reported this refusal to Peter Long.
121. The claimant wrongly believed that Laura Gardiner had arranged a social gathering in or around Easter 2023. She had overheard a conversation which in fact related to an outing to the theatre when Micheal Irwin had asked Laura Gardiner to accompany him because his partner was unable to use the second ticket he had purchased.
122. In or around May 2023, Kirsty Chiappa and Rachel Provan purchased presents for two probationers when they were leaving, stated to be from the biology department, but none of the other staff had been asked to contribute because it was unusual to have collections for probationers. The claimant wrongly believed that she was excluded from a departmental collection.
123. On 23 May 2023, Laura Gardiner had a conversation with the claimant and a student teacher when the student mentioned that she had found a relevant video clip which she was going to show to students. The claimant advised her to ensure that she had watched the clip all the way through. To underline that advice to the student, Laura Gardiner shared a story about when she was showing a video to a class and an inappropriate image, of a woman in underwear, appeared as a pop up. John MacDonald was not party to this conversation. There was no reference to porn.
124. On 24 May 2023, the claimant had used the microwave, which is located in the technicians base, to heat up food. John MacDonald was in the room but had not noticed her putting it into the microwave until he realised from the smell that it must have spilled. The claimant asked John MacDonald "why did you not come and get me", and John MacDonald said "what did your last slave die of" in response. The claimant complained about this to Peter Long.
125. On or around 24 May 2023, the claimant proposed the use of a bi-level model for course progression. Peter Long said there is no requirement to run bi-level courses in a large school and decided that it was not the right fit, but suggested it could possibly be adapted

for S4. Notwithstanding, the claimant worked on restructuring course content. Peter Long decided not to use the model. The claimant complained to Alan Dick.

126. On or around 31 May 2023, Michael Irwin acted out an old comedy sketch from around 1969, in regard to a neighbour dispute when there was a difference of opinion whether the flowers destroyed by one neighbour were “marigolds” or “peonies”. All in the staff room were amused. He thought no innuendo was intended because of the date of the sketch. Laura Gardiner did think there was a double entendre, and asked Michael Irwin if he knew the difference between marigolds and “peonies”. There was no direct reference to male genitals.

ASN opportunities

127. During 2022, Alan Dick approached Claire O'Donnell, principal teacher of inclusion support, to ask if the claimant could shadow her team to get an understanding of how her department worked. By e-mail dated 16 August 2022, Claire O'Donnell invited the claimant to be involved in a support for learning pilot on alternative P7 pathways.
128. The claimant attended on one occasion, but then sent an e-mail to Claire O'Donnell on 25 August 2022 to advise that she did not believe she could contribute but wanted to work with older pupils. The claimant attended a departmental meeting on 24 October 2022 suggesting a pilot differentiation programme, when Claire O'Donnell discussed starting with the biology faculty. Nothing concrete came of that.
129. On 24 April 2023, and again on 16 May 2023, the claimant e-mailed Alan Dick requesting that he arrange a meeting with Claire O'Donnell to identify further opportunities to gain experience in Additional Support Needs (ASN) to support her registration in this field. Alan Dick responded positively.
130. On 24 April 2023, the claimant got in touch with Claire O'Donnell by e-mail, who responded on 2 May 2023 to say “let’s identify a couple days where you can come shadow! Let me know which days suit”. She invited the claimant to attend subsequent meetings and had various interactions with her, both verbal and by e-mail, to facilitate her contribution to the department.
131. A meeting was arranged for 20 June 2023 which Alan Dick attended. This included a suggestion, of which Claire O'Donnell was supportive, about possible opportunities for the claimant to gain experience in ASN departments in other schools. This was proposed because the claimant worked Monday to Thursday and had limited opportunities outwith her timetabled classes to assist in the ASN department, but could be available to work Fridays in other schools. Alan Dick suggested he could speak to other head teachers about that possibility.

End of term 2023

132. Prior to 19 June 2023, Peter Long advised the claimant that he intended that she would move room to be closer to, and more integrated with, the biology department, Rachel Provan's room having become vacant because she was going on a sabbatical. The room had previously been a chemistry room and the intention was that it would be used by a chemistry teacher. The claimant was unhappy about this, but Peter Long decided that for logistical reasons she should change classrooms.
133. Peter Long did not conduct a PRD for the school year 2021 to 2022 with the claimant. He did not conduct such reviews with a number of other members of staff at that time. PRDs for sessions 2021/22 and 2022/23 were conducted in June 2023.
134. On or around 27 June 2023, Alan Dick gave a speech at a social gathering when one of the PE teachers was leaving. Prior to the speech he spoke to a number of teachers requesting anecdotes to include in his speech. He did not make any sexual references and he did not refer, directly or implicitly, to the claimant's grievance which she had submitted to Alan Dick on 7 June 2023.

Grievances

135. That formal grievance which was handed to Alan Dick on 7 June 2023, and copied to Linda Mullin, HR, includes the following:

"I want to bring to your attention that I have become the target of a series of microaggressions by other science staff since raising my concerns informally about the covert Islamophobia incident on 22/9/22. This was initiated by Mark Smith, involved other members of the Chemistry department and Biology/Physics faculty too. Linda Gibson also openly displayed aggression towards my protected characteristics and beliefs through expressing statements and destroying a book on Creationist beliefs and evolution".
136. The claimant also made reference to the following incidents: an incident on 27 October 2022 when the Satanic Verses was discussed which she believed was "an attempt to provoke me, incite hatred and create a hostile environment"; on 8 November 2022, when Barry McKenna approached the claimant seeing that she was unwell to talk about LGBT rights in Qatar. She advised that since then she had "increasingly experienced other forms of hostility."
137. She gave the following examples: "being excluded from discussions that affect me, development and leadership opportunities, being involved in student teacher timetables. I am also being socially isolated by my colleagues. On 23/1/23 Peter interrogated me in front of pupils about my workload, causing me to suffer an anxiety attack. This is not an isolated incident as there have been other occasions in the past where his responses

towards me have been disproportionate and he has embarrassed me in front of pupils – a form of bullying. On many occasions (January-March) Linda Gibson has displayed micro-aggressions towards me in her behaviour while passing me in corridors. She was intimidating me by loitering outside a disabled toilet whilst I was inside (3 occasions from 20/3/23 to 18/4/23) then harassing me by making comments when I would come out. On one occasion, I waited inside until I felt she had left and it was safe. I felt very humiliated and dehumanized by this. I also felt insulted when you approached me (after speaking to her) to ask if I was praying in the toilet – Linda has made the same enquiry about me in the past to another staff member. Most recently on 24/5/23 our technician Wendy made exaggerated comments when describing food I left in the microwave, John responding with “what did your other slave die of” when I asked why he didn’t come to get me”.

138. The claimant continued, “This series of incidents has left me feeling aggrieved, humiliated, and without a safe space. I believe I am being victimized for bringing my concerns to the attention of senior management and HR. I also believe the way in which my initial complaint has been managed, the delays thereafter, has created opportunities for animosity towards me and I have become an easy target for aggression in my workplace. I want this behaviour towards me to stop as it is negatively affecting my health and I want the individuals responsible to be held accountable. I also want HR to investigate these concerns further as there is a toxic culture towards me in the department which I believe to be due to my identity as a practicing Muslim. I have previously expressed I am willing to partake in mediation and want staff training to be implemented on equality issues relating to race and religious discrimination in the workplace, to ensure these incidents don’t happen to me again, nor anyone else who shares my protected characteristic. I would be grateful if you could let me know when I can meet you to talk about my grievance. I would like to be accompanied at the meeting with a representative”.
139. By e-mail dated 8 June 2023, Alan Dick acknowledged receipt: “further to our conversation I have passed this on to Linda Mullin....I am aware she has written to you regarding the grievance and is waiting on your response. I will liaise with Linda and yourself regarding how we move this forward”.
140. By e-mail dated 8 June 2023, Linda Mullin acknowledged receipt of the grievance form; asked the claimant to confirm her representative and advised that she was going on leave the next day so that any meeting would have to be after she returned on 26 June 2023.
141. On 8 June 2023, Nicola Maynes entered the claimant’s classroom when she was teaching S2. She stood at the back for a time to understand what the class was learning. This was a routine visit to check in on her assigned year group classes. She also checked in on a class of Peter Long and Barry McKenna that same day. Nicola Maynes did not know at this time that the claimant had lodged a grievance. The claimant complained to Peter Long about this.

142. On 8 June 2023, Alan Dick undertook his routine patrol around the school and walked past the claimant's classroom.
143. On 9 June 2023, the claimant advised Ms Mullen that her current union caseworker was Mark Oley and asked if her colleague Derek Stewart could accompany her at the grievance meeting. Although by then on leave, on 12 June 2023, Linda Mullin replied to confirm that arrangements would be made for a meeting before the end of term. She also e-mailed Alan Dick to advise of the position.
144. Between 14 and 23 June 2023, the claimant corresponded with Alan Dick regarding arrangements for a grievance meeting and a mediation meeting before the end of term.
145. Towards the end of June, Linda Gibson spoke to Derek Stewart, another NASUWT member, who raised the matter of having been asked by the claimant to accompany her at a meeting, and asked why the claimant had not asked her. Linda Gibson assumed that this was a meeting about the AOC incident, although she did not share that with Derek Stewart. She said that the claimant would have a full-time caseworker allocated who could accompany her. He subsequently told her he had decided not to accompany the claimant. Ms Gibson was not however aware that the claimant had lodged a grievance.
146. By e-mail dated 23 June 2023 the claimant e-mailed Linda Mullin copying in Alan Dick, raising concerns that although she had not discussed the matter with departmental colleagues, she had heard that Linda Gibson had been asking who her representative was to be at the grievance hearing, and asking other union staff if she had approached them, and told them she had submitted a grievance against her, which she believed be an attempt to instigate hostility towards and influence those individuals. She stated she was informed that her representative had restrictions placed on them and could not support her at the grievance.
147. By e-mail dated 26 June 2023, Linda Mullin responded to the claimant copying in Alan Dick, advising her to raise the concerns she had about Linda Gibson with her trade union. She also stated that she was aware that HR had been advised that her trade union representative would not be supporting her at the meeting due to take place the next day to discuss possible pathways including mediation, because the claimant wanted to pursue the grievance issues. As she had advised on 12 June 2023, that was to take place before the formal grievance was considered, and accordingly the meeting was cancelled. She concluded, "If you wish to pursue your grievance, this will be arranged in line with the agreed grievance procedures and will be scheduled for the new school session in August 2023".
148. The claimant replied by e-mail dated 26 June 2023 copying in Alan Dick to advise that she was not comfortable in pursuing mediation with Linda Gibson because "she has repeatedly intimidated me; I feel unsafe in her presence in the department and actively

avoid her. She has not accepted responsibility for the way she has made me feel in the past and has also refused mediation with me before, therefore my reasons for pursuing a grievance. As some of the others have backed down, I have always been ready to partake in mediation with them. It was upon Mark Oley's request that I asked for two meetings to be arranged".

149. The claimant commenced ACAS early conciliation on 14 July 2023.
150. By e-mail dated 21 July 2023, from the claimant to Linda Mullin, copying in Mark Oley, the claimant advised that she had felt pressurised into agreeing to mediation, confirmed that she did wish to participate in mediation with the individuals who had not persisted their discrimination towards her and with the others after the grievance was investigated. She advised that she would resubmit her grievance and include the incidents that occurred in June. Mark Oley replied to that e-mail on 21 July 2023, copying in Linda Mullin, and expressing concern, among other things, of the claimant making "such false allegations" of being pressurised into undertaking mediation.
151. By e-mail dated 24 July 2023, Linda Mullin confirmed that since she had been advised that Mark Oley would not be supporting the claimant, she had cancelled the pre-mediation meeting with them, and efforts to obtain an external mediator, and that the claimant should submit a fresh grievance to be heard at the start of the school session in August 2023.
152. The claimant expressed concern in an e-mail dated 1 August 2023 about attending a grievance on her own, and in response Linda Mullin confirmed that she would be entitled to be accompanied in line with the ACAS code; and that arrangements would be made to have her grievance heard once they had received her refreshed grievance.
153. The claimant lodged a further "refreshed" grievance addressed to the then director of education on 7 August 2023. That grievance extended over seven pages. The introductory paragraph stated as follows: "I am resubmitting my grievance to bring to your attention a series of behaviours, acts of aggression and discrimination...experienced...I have tried resolving this matter through the internal investigation...but I am not satisfied with the outcome. I believe the way in which my initial complaint has been handled by the school, the way the investigation was conducted, have created opportunities for further animosity towards me and made me a target for harassment and other forms of discrimination in my workplace. I believe some incidents – from the last school session (2021-2022) and those that occurred after submitting my grievance in June 2023 – are linked to the patterns of behaviour and discrimination I have experienced throughout the school session of 2022-2023..."
154. The claimant referenced the Equality Act, and under the heading "discrimination/harassment" listed nine incidents; under "less favourable treatment", she

listed eleven incidents and under victimisation she listed four incidents, all as summarised above.

155. Under the heading resolution sought, she stated that she wanted these incidents to be investigated by HR, and the individuals responsible to be held accountable. She said that she believed the incidents “were triggered by the multi-cultural/interfaith work” she was doing in school and “other staff also resisted this work and my leadership in this area prior to this”. She suggested that the individuals involved would benefit from BRL training and Islamophobia awareness training, and made suggestions about that training. She said that she was willing to take part in mediation. She said that she understood a grievance meeting would be arranged.
156. Michelle McCargo, social work children’s services manager, was appointed to hear the stage 1 grievance with HR support from Elspeth Chisholm, HR assistant.
157. On 9 August 2023, in an e-mail headed up “suitable dates for a stage 1 hearing”, Linda Mullin advised the claimant that she was on leave after that date until 21 August 2023, but that she had copied Elspeth Chisholm into the e-mail because she would be providing the professional HR service for the manager hearing the stage 1 grievance, and proposing 24 or 25 August for the hearing. The claimant confirmed that 24 August 2023 was suitable.
158. The claimant was signed off sick on 14 August 2023.
159. On 17 August 2023, Michelle McCargo confirmed to the claimant the date and time and arrangements for the stage 1 grievance hearing. She stated she had been advised that the claimant had reported absent with work related stress and did not return to school (at the beginning of term) on 14 August 2023. In line with council policy an immediate referral to occupational health was required to ascertain what supports could be put in place and for confirmation that the claimant was fit to participate in the grievance process. She advised that the hearing had to be postponed until they had confirmation from OH that she was fit to continue with the process.
160. The claimant advised that she was able to attend the grievance hearing; but on 23 August 2023 she advised Michelle McCargo that she did not then feel well enough to sit through the meeting the next day. Michelle McCargo replied that there was no issue with the meeting being postponed and the hearing was rearranged for 31 August 2023. The claimant was accompanied at the grievance hearing by a companion, Abid Sethi.
161. On 1 September 2023, in a letter to the claimant, Michelle McCargo confirmed that it had not been possible to reach a resolution at that meeting and that she had decided that further investigation was required, in particular to research the AOC book and to speak to the others involved. She advised that the matters would be fully explored by an

investigating officer; and that a further grievance meeting would be arranged once she had considered their report with a view to seeking a resolution.

162. That letter included the following: "Whilst I acknowledge your expectation of a finding/resolution from the meeting, and your disappointment that this was not possible, as discussed, it is important that this grievance process is robust.....I also acknowledge your concern around related timescales and can confirm that the investigation stage has been prioritised and an Investigating Officer appointed – Felix Haggerty, Training and Development Manager, who will be in touch with you in due course. In the meantime, it was noted that an occupational health referral has been arranged for you and this has been confirmed as scheduled for 12th September 2023....a formal note of the meeting was to be sent in due course."
163. The claimant responded by e-mail dated 1 September 2023 saying that she was disappointed there was no conclusion and had assumed that all the evidence would have been explored beforehand. Michelle McCargo responded advising that once the investigation was complete she would be invited to meet with her again.

Investigation

164. Felix Haggerty met the claimant accompanied by her companion, Abid Sethi, on 18 and 21 September 2023 with support from Elspeth Chisholm, who took notes.
165. On 26 September 2023, he interviewed Alan Dick and Pauline Crean.
166. On 28 September 2023, the claimant submitted the first ET1.
167. On 23 October 2023, Felix Haggerty interviewed Peter Long.
168. On 23 October 2023, the claimant asked for a copy of the notes from her grievance investigation meeting. Elspeth Chisholm responded to apologise for the delay because she had just returned from annual leave.
169. On 30 October 2023, Elspeth Chisholm explained that a statement had been drafted from the information given at the meeting and she attached a copy asking the claimant for any suggested changes by 10 November 2023.
170. By email dated 10 November 2023, the claimant asked again for the original notes, but was told by e-mail dated 13 November 2023 that she should highlight any inaccuracies/omissions she believed were contained in the statement or omitted from the statement.
171. By e-mail dated 22 November 2023 the claimant's companion advised that he had been asked to let Elspeth Chisholm know that the claimant was really unwell and would not be

able to send comments on the notes of the meeting or attend any meetings until she felt able to do so.

172. By e-mail dated 15 January 2024, the claimant sent Elspeth Chisholm suggested changes to the investigation statement, and asked “I remember Felix saying you were meeting with the other parties in the week following our second meeting so, you will have their statements ready for the next stage too. If you and Felix could please look through it and feedback to me as soon as possible about next steps it will be much appreciated.”
173. By e-mail dated 12 February 2024, the claimant followed up on the previous e-mail having received no reply advising that she had not heard about a date for a meeting.
174. By e-mail dated 12 February 2024, Elspeth Chisholm advised that although statements are not a verbatim account of the meeting, and additional information would not normally form part of any revision, Felix Haggerty had confirmed that he was happy to accept the majority of the revisions suggested. She advised, that “In light of your external claims, advice was sought from our legal services regarding interviews/interview statements. This has now been received and I can advise that investigation interviews with some Departmental staff are intended to take place in the week beginning 19th February, subject to staff availability. Once this process is complete, Felix will submit his investigation report to the Grievance officer who will contact you to arrange a grievance hearing.”
175. By e-mail dated 16 February 2024 the claimant advised that it was her understanding that the interviews with all others were to take place the week after the second investigation meeting in September and asked for confirmation that they took place at the time.
176. Elspeth Chisholm replied on 16 February 2024 that, “Felix had hoped to conduct interviews following your investigation meeting however as indicated in my previous email, this had to be held (sic), pending advice from our legal services in light of your external claims. I can confirm that the interviews which are still to be conducted are taking place on 20th February. Following this, Felix will complete his investigation report for submission to the Grievance Officer who will then contact you regarding a grievance hearing”.
177. On 20 February 2024, Felix Haggerty interviewed Nicola Maynes and Linda Gibson, and on 27 February 2024, he interviewed Mairi Lagan, Rachel Provan, Laura Gardiner and John MacDonald.

Claimant's reference

178. In or around February 2023, the claimant requested a reference from Alan Dick. A draft was forwarded to the claimant towards the end of February.
179. By e-mail dated 3 March 2023, the claimant asked to meet Alan Dick to discuss the reference. One concern which she raised related to his description of her communication

skills and specifically that she has a “basic understanding of the mix of different learning styles”. He was not prepared to amend that at the time. That reference was dated 7 March 2023.

180. On or around 16 February 2024, the claimant requested an updated reference. Alan Dick arranged for updates to be made to the reference he had prepared in March 2023. In particular he amended “basic understanding” to “solid understanding”. This was an improvement on the previous reference. However he failed to change the date, which should have been March 2024.

Claimant's resignation and last day

181. By letter dated 19 February 2024 the claimant gave two weeks' notice of her resignation, stating as follows:

“I am resigning in response to the Council's and its employees' actions towards me. I set my complaints out in my grievances, and which are now the subject of ongoing grievance and employment tribunal proceedings. Further to these complaints, the Council's subsequent actions have led me to that I have no alternative than to resign.

The way the Council has responded to my complaints; significant delay in dealing with my grievances; the failure to move to a formal grievance process; the failure to take steps to support me or try to prevent continuing and damaging behaviours of my colleagues, and the Responses to my tribunal claims are all fundamental and continuing breach of the implied duty of trust and confidence owed to me by the Council. I had hoped it would be possible to resolve my concerns before a preliminary hearing takes place but that has not been possible.

I have been absent from work due to ill health because of how I have been treated, failure to make reasonable adjustments, and changes made to my workplace conditions at the end of term where I was forced to move room, to a location where I was surrounded by those I had grievances against. My mental health has continuously deteriorated since, I had a breakdown because of the way I have been treated and the situation I now find myself in. My physical health has also suffered because of this situation. Having recently been informed the interviews are yet to take place as part of the investigation process, both my mental and physical health continue to be severely affected.

Considering the Council's Responses to my claims, the continuous delays thereafter in addressing the issues I complain of, there is no possibility of my ongoing grievances being determined fairly or impartially. The Council has already considered matters and has decided its responses to my complaints which are set out in its Responses to the Tribunal claims. The outcome to not uphold my claims is pre-determined.

In light of this I have decided I cannot return to work at Park Mains High School with my former colleagues, and I have no alternative but to resign. I believe I have been constructively unfairly dismissed. I will return the school's laptop by my last day of employment on Thursday 29th February 2024".

182. Despite receipt of that resignation letter, it was decided the remaining interviews which were due to take place as part of the grievance investigation the next day, 20 February 2024, should continue.
183. On 29 February 2024, the claimant went to the school to return her laptop. Peter Long became aware that the claimant was in the school, but they was unaware that the claimant was due to attend school that day.
184. Peter Long then went to locate the claimant because he was concerned not only for her welfare but for the welfare of his staff, given developments in regard to the claimant's grievance and subsequent employment tribunal claim against the various respondents in this case.
185. The claimant went into her old classroom where Micheal Irwin was teaching and he asked her if she was there to get her belongings, which he explained were in a box. Peter Long located the claimant and asked if he could help her but the claimant ignored him. He followed her to observe her interactions with other colleagues.
186. Fiona Keating was working at the school on a supply basis on that date.
187. Felix Haggerty completed his investigation report in March 2024.

Observations on the witnesses and the evidence – assessment of credibility

Claimant's evidence

188. While we found the claimant's views to be genuinely held, we conclude that they are wholly misconceived.
189. The claimant's case required us to conclude that there was concerted action among a large number of colleagues to target her by subjecting her frequently to a large number of acts of subtle and low level discrimination in the course of everyday interactions over a three year period. She argued that this included influencing others with whom she had previously enjoyed a good working relationship (such as Mr MacDonald). The claimant apparently came to the view that there was a conspiracy among her colleagues to ensure that she was isolated and unsupported. Believing that, she sought an explanation for the perceived treatment, and she concludes that this must be about her race and/or religion, underlined by the fact that she is visibly different from others, a factor which she tended to stress throughout the hearing.

190. We have come to the view however that she reached these conclusions without any foundation.
191. This was because of her very apparent tendency to misread many situations, which were ordinary everyday interactions between teaching colleagues. It was apparent that she approached every interaction with cynicism, and assumed that many perfectly normal exchanges had some kind of hidden meaning designed to denigrate or exclude her, which she too readily, and without justification, put down to discrimination.
192. In particular, she frequently misinterpreted tone and body language in her interactions with colleagues. There are many examples explained in our deliberations below, but this tendency is illustrated by her even misinterpreting “good morning”, assuming that the head teacher was “cold” towards her, and frequently believing she was being “mocked”.
193. The claimant all too frequently misread what was said or written by colleagues leading her to come to the wrong conclusion about their intentions. But one illustrative example relied on by the respondents was evidence from the whatsapp conversations on 25 February 2022 when Ms Chiappa asked Ms Lagan how much she owed her, to which the claimant responded “what was happening that I missed” to be told it was for a starbucks coffee that she had purchased for her the day before, and to which the claimant replied “ah ok. Thought there was a night out I wasn’t invited to when I saw Mairi’s message”.
194. The claimant very frequently misconstrued perfectly innocuous interactions. For example, the claimant concluded that she had been victimised by Ms Maynes. To support that conclusion, the claimant apparently rely on the proximity of her visit to her classroom with the date of the grievance letter, an assumption that Mr Dick would have told her about it and an assertion (apparently a wrong one) that Ms Maynes had not been in her classroom before. There was however no direct or indirect evidence from which she could infer a pernicious reason for the visit. We agreed with the respondents’ submission that such conjecture was insufficient to allow the Tribunal to draw a discriminatory inference from the visit, even before taking into account the evidence of Ms Maynes.
195. Some of the more extreme examples which the claimant relied on to support her claim of discrimination include her conclusion that her files had been deliberately corrupted by Peter Long. This accusation had no foundation whatsoever, yet the claimant maintained her position in the face of explanations proffered in evidence. There was no evidence, even from the claimant, to support a suggestion that the file was deleted or “corrupted” deliberately. The fact that the claimant apparently genuinely believed that her faculty head would go to such lengths shows the extent of her mis-judgement, when he, as he said in

evidence, could simply have advised her that he did not wish her to work on that project. We noted too that the claimant was insistent in submissions that she did not use the word “virus” when describing what she believed Mr Long to have done. We have noted her as having first used that word in an answer to cross examination by Mr Anderson. We considered this to be support for our view that the claimant could mis-remember even recent dialogue, while insisting that her recall was better.

196. Further, the claimant was extremely quick to assume that Mr Dick had fabricated evidence for this Tribunal, again a very serious accusation, which she made without reflection and particularly before even listening to the entirely plausible explanation for the misunderstanding which quickly became clear in evidence. These are extremely serious allegations but without any substance.
197. Other examples which we relied on to reach this conclusion that the claimant had no credible basis to support her belief were: that the head teacher and depute head teacher sought to sabotage the cultural diversity day; that the timing of the AOC and Satanic Verses incidents was not a co-incidence, suggesting co-ordination between groups; that the Satanic Verses incident was pre-planned to trigger her; that Ms Mullin deliberately delayed dealing with her grievance until after summer 2023 so that by that time the head teacher would have two years continuous service for unfair dismissal protection. We have found that there is no evidence, direct or indirect, to support these allegations made by the claimant.
198. The claimant also relied on many instances where she believed that her work or her approach had been criticised as examples of discrimination. Any feedback or even constructive criticism which she did not like was sufficient, without more, for her to extrapolate that she had been discriminated against. Some of the strongest challenges by the claimant of the respondent's witnesses related not to her claims but to any suggestion of criticism about her, her work or her teaching methods. There was however no evidence to support the claimant's mistaken impression that any criticism of her work was because of her protected characteristics.
199. The claimant also frequently suggested to witnesses that they should have been aware of how she was feeling or how and why she was reacting to events, when it was clear from their evidence that there was no reason why they should. In contrast, it was apparent that the claimant lacked empathy towards her colleagues, and how they might be feeling or might react to the way she interacted with them. She appeared to view things only from her own perspective. This was something which had been raised with her by Ms Gibson and by Mr Long, in an attempt to repair relationships. The claimant was, as the respondents submitted, assertive herself and would challenge colleagues including her faculty head on many occasions. However she had a very low threshold for taking offence

and complained about a number of colleagues being assertive to her, and would label those interactions as acts of discrimination without any basis or justification.

200. It was apparent to us that whenever the claimant heard something she did not want to hear, or a colleague did something she did not like or agree with, she would complain about them or make accusations against them. She had very set ideas about how colleagues should behave, how Mr Long should run the department, even how Mr Dick should run the school. If she did not agree with them or where what was done did not accord with how she believed it should be done, she would, without foundation, claim that such decisions amounted to discrimination.
201. We noted too, as referenced in submissions by the respondents, that the claimant was apparently in conflict with many others, to differing degrees, and that anyone who came into her orbit could find themselves criticised or accused of racism. This included her trade union representative (who accused her of making false and baseless allegations), her doctor, her former lawyer and the respondents' representatives.
202. We have set out our interpretation of the claimant's presentation of her case, reinforced by the respondents' submissions, because we consider these to be important observations which go to the heart of the credibility and reliability of the claimant's evidence. We believe these misunderstandings go a long way to explaining why she apparently genuinely but wrongly believed that there was a conspiracy among a very large number of her colleagues to exclude and denigrate her. There was however no evidence to support her conclusion that any treatment of her was because of her race or religion.
203. The claimant seemed to be unable to reflect on the fact that if she was right about her colleagues not liking her or even turning against her, it might be related to the very frequent complaints about trivial or misconstrued circumstances she made about almost all of her departmental colleagues to the faculty head and then the head teacher.
204. That all said, we appreciate that the claimant is a party litigant and that she is unfamiliar with tribunal processes and procedure. While in some respects she represented herself with considerable ability, she found it difficult to know what was and was not relevant in her line of questioning, so that she frequently had to be curtailed, not least given the potential to extend this already very long hearing.
205. In particular, the claimant did not appear to appreciate that this case was not about her abilities as a teacher, or indeed anything to do with different or preferred teaching styles. We have no doubt that she is considered to be an accomplished classroom teacher, and that she was valued and respected as such. It was for that reason that positive references from previous schools were irrelevant. Rather, the focus of course of our deliberations is on the behaviour, treatment and conduct of the respondents towards the claimant and the reasons for that.

Respondent's witnesses – general points

206. We set out our views in some detail above because they go a long way to explaining why by and large we have accepted the evidence of the respondents, and the respondents' witnesses, over the evidence of the claimant.
207. We took account of the claimant's submissions about the evidence and the respondent's witnesses. The respondents expressed concern in submissions about what were described as "unwarranted random personal attacks" on witnesses. We noted too that during the hearing the claimant accused a number of witnesses of "putting on an act" while giving evidence, for example but in particular Ms Gibson, whom the respondents' representatives pointed out, she accused of lying within the first minute of cross examination.
208. We observe here that although the first respondent accepts vicarious liability, that is the first respondent accepted that it would meet any award made against any of the individuals, the claimant chose not to withdraw claims against the individual respondents despite being invited to. It seemed to us that the claimant did so in order to have a forum in which she could accuse her former colleagues, directly and without obstruction, of being racist and islamophobic. We noted that many of the claimant's questions in cross-examination were not focused on the facts which she sought to prove, but rather were designed to attack the general credibility of witnesses.
209. The claimant asked the Tribunal to take account of the fact that the respondents had sat in the hearing room throughout and heard the evidence of those who had given evidence before. Normally of course they would not have heard the evidence before they gave theirs if they had been witnesses not respondents. We have taken that on board in our consideration of the weight to be given to the respondents' evidence in the knowledge that they had heard all of the evidence that went before.
210. We noted that the claimant relied in her submissions, when urging us to accept her evidence over that of the respondents, on failures of the respondents to produce evidence to support their version of events, whereas the burden of proof being on the claimant, we accept that it was for the claimant to adduce evidence to support her claims.
211. The claimant submitted that the "witnesses have given unreliable, false and fabricated and contradicting accounts where more than one witness has been involved in an incident", relying on a number of individual incidents, which we have dealt with, as appropriate, in the findings in fact and deliberations.
212. Broadly, the claimant relied on her assertion that her recollection was better and that others could not recall details about events until she reminded them. It is perhaps not surprising that the claimant has a better recall given that she was recording events at the

time. We do not accept however that the fact that witnesses could not recall details from some considerable time ago meant that they were not telling the truth. Further, as Ms Gardiner pointed out in evidence, she did not appreciate that many of the “incidents” relied on by the claimant to support her claim were “incidents” at all, but rather day to day normal exchanges between colleagues. The claimant relied in submissions on conflicting details about these interactions, but we did not consider that to thereby invalidate their evidence, given in particular these were uncontroversial everyday teaching interactions about which no issue was taken at the time.

213. On the contrary, we considered the fact that the respondents and the respondents’ witnesses could not recall or were inconsistent on details goes to support their denial, given the claimant relies on what were everyday exchanges between colleagues. Any inconsistencies in their evidence tends to underline the fact that there was no collusion, and no conspiracy or concerted action to treat the claimant differently, and emphasises that these were innocuous interactions with no nefarious intentions against the claimant.
214. Further, the claimant had a marked tendency to assume that the respondents were much more aware of her presence than they actually were. This focus was illustrated for example by how difficult she found it to accept, to the point of suggesting that they were lying, that colleagues did not remember her being in the room when certain conversations were taking place. However, we found it entirely plausible, given the large number of interactions which take place on a daily basis in staffrooms, and the to-ing and fro-ing of colleagues, that others could not recall her being there (or indeed who else was in the room). This supported our conclusions that many of the interactions of the respondents could have nothing whatsoever to do with the claimant, or be designed to upset her.
215. We found the respondent’s witnesses to be credible, convincing and genuine. We agreed with the respondents’ representatives that they demonstrated in their evidence that there is a culture of collegiality in the department.
216. The respondents (and their witnesses) generally all gave evidence in a thoughtful and articulate way, and sought to assist the Tribunal by answering some difficult questions in a clear and measured fashion to the best of their recollections with clear and plausible explanations for their conduct. They made concessions where necessary and admitted when they could not remember or could not be certain. The evidence of the respondents’ witnesses and the respondents broadly corroborated each other.
217. By and large they did not show any signs of being or needing to be defensive about their actions. Further, they largely remained calm and measured in the face on occasion of very serious accusations and provocation, not just of lying but when being accused of fabricating evidence, deliberately corrupting files and being racist and islamophobic.

218. Crucially, nothing that any of the witnesses said allowed us to draw any inferences that their interactions with the claimant had anything whatsoever to do with her race or religion, as discussed further below.

Evidence of the respondents

219. We now make some observations to support our conclusions on the evidence of the individual respondents, although further observations are included in context when deliberating on each issue below.
220. The evidence of Nicola Maynes was assured and entirely plausible. In particular, it was clear that she was not aware of the claimant's grievance, and that the classroom visit was routine. As discussed above, there was no reason for her to go into the claimant's classroom to "intimidate her".
221. We found the evidence of Alan Dick to be impressive. He gave clear, reasoned and straightforward answers. He remained measured and calm when pressed by the claimant about the decisions he had made relating to her and when he was accused very pointedly of lying. This included a very serious accusation relating to the fabrication of evidence for this Tribunal. We found that there was no substance to that whatsoever. On the contrary, he gave a clear rationale for all of his decisions, which were evidently an appropriate use of managerial discretion. We agreed that the evidence supported the conclusion that "he is a good people manager, understands what is going on in his school and seeks to help and support teachers in his school". For example, we accepted evidence he went to some lengths to support the claimant in gaining opportunities for career advancement. In relation to ASN registration, we accept entirely that his proposal regarding approaching other schools to ascertain if they had budget to engage the claimant on Fridays was supportive and indeed in our view went beyond what a head teacher might be expected to do. His interventions in cultural diversity day were clearly based on his experience, within his management discretion and intended to make the day a success. There is no rationale to support any suggestion that he would set the claimant up to fail which would reflect on the reputation of the school and which he said "goes against my values as a head teacher".
222. While we thought that Peter Long was somewhat defensive in the way he gave his evidence, we understood that he was keen to defend his reputation as a faculty head. The claimant was particularly vitriolic in the way that she questioned him, and we got the impression that he was the focus of blame for the claimant's belief that her career had been blighted by events at PMHS. We accepted that he showed "admirable restraint" in the face of considerable provocation during questioning. The evidence supports the conclusion that he sought to do his best by the claimant; that he was able to praise the claimant where appropriate but faced ever increasing challenges over the years and that he provided clear reasoned evidence as to the difficulties in working with the claimant.

223. We noted that Linda Gibson was very upset during evidence and that she in particular found the accusations “very distressing, bewildering...hurtful and hard to take”. She said that “this is not who I am as a person throughout my life”. It was clear that the seriousness of the accusations had taken their toll on her, not least because of her contribution to the work of her union, which included being the local rep for the Equalities Advisory Group and attending anti-racists marches organised by the STUC. We accepted her evidence that she had initially been very supportive of the claimant, that at first their relationship was cordial, friendly, professional and collegiate, but that the claimant appeared to turn against Ms Gibson when she first perceived that she criticised her. We believed she was sincere in her evidence about the AOC incident.
224. We found Laura Gardiner to be relatively candid in her evidence although it was apparent that there was a good deal of animosity between her and the claimant. For example, she admitted that she was the most outspoken member of the department, and accepted that she would answer first at departmental meetings if others were silent. She admitted that she discussed topics such as the Naked Attraction TV programme. She admitted that she believed there to be inuendo in the comedy sketch incident. While she did give various reasons for not attending the lunch which the claimant organised, we accept it could have been a combination of reasons but ultimately that she was “fully entitled to choose...”. We accepted that she had not realised at the time until the ET1 was served on her that these were “incidents” at all, but were just normal conversations about relevant topics. That included for example the Satanic Verses incident that “I didn’t realise that anything had happened”. Regarding the display board incident, her evidence was that the claimant “asked a question and I simply answered the question I was asked”. We accepted her evidence that she did not know about the grievances.
225. While we again noted strains in the relationship between the claimant and Mairi Lagan, we accepted that there was no evidence to suggest that their relationship was anything other than professional. Ms Lagan was candid about the fact that she came off the whatsapp group because of the claimant. We accepted that the evidence supported her rationale that she was concerned that what she might say might be taken the wrong way by the claimant after the Satanic Verses incident, that she was “concerned about how relatively innocent comments were being perceived by the claimant”. Ms Lagan also gave evidence that she did not go to socials with the claimant and that she would not have a conversation with her without others being present. We found this to be entirely plausible given all of the events that had come before.
226. We found the evidence of Rachel Provan to be of assistance to the Tribunal, and we noted she would make concessions, or explain that she could not recall, as appropriate. We agreed with the respondents that the claimant’s evidence indicated a level of professional jealousy with Ms Provan and that the claimant resented any suggestion that Ms Provan, an unpromoted teacher like herself, should take the lead on any matters where she was

involved. We found Ms Provan's explanations about why she did what she did to be entirely plausible, and reinforced by the evidence of Mr Long.

227. For all these reasons, wherever there was a conflict of evidence either about events or perceived tone/body language, we accepted the evidence of the respondents and their witnesses.

Tribunal deliberations and decision

228. We took account of the respondents' oral submissions in response to the claimant's written submissions about what was described as "overreach", that is that the claimant appeared to be relying on new facts in respect of which no evidence had been heard. We agreed that some of the claimant's submissions did not reflect the evidence which we had heard and self-evidently we have only taken into account the evidence heard when making findings in fact.
229. The claimant in her submissions goes into extensive detail in regard to allegations about direct discrimination in particular up to June 2023 about what she says happened.
230. It is important to record that even if this Tribunal were to accept in regard to the vast majority of allegations that what happened was as the claimant describes, that is that she was treated the way she alleges, there is absolutely no evidence to support the claimant's "belief" or "feeling" that what happened to her was because of her race and/or religion.
231. We did not accept that there was any foundation whatsoever to the claimant's perceptions that she was treated differently from others who did not share her race and/or religion or because of her race or religion. Indeed, as discussed above and in detail elsewhere, we have found that there was entirely plausible alternative explanations for all of respondents' conduct and behaviour. We heard no evidence to rely on which raised any inference of discrimination.
232. Further, we also took into account the fact that the claimant did not make any reference to her race or religion as the explanation for any conduct or behaviour until October 2022. This lack of reference to the claimant's belief that the conduct was related to race or religion was also reinforced by the fact that, during the first two days of evidence, when the Employment Judge was taking the claimant through her evidence and asked her why she believed she had been treated the way she had, she made no mention of her race or religion.
233. A very important factor which reinforced our views that the actions of the respondents had nothing to do with the claimant's race or religion was the claimant's differing reasons for, and the catalyst for, and timing of, any change in behaviour.

234. We noted that incidents which the claimant relies on took place from January 2022 onwards. We understood that related to the claimant's belief that any incidents prior to that were out of time. By that time however, the claimant had already made a large number of complaints about her treatment or how colleagues had behaved.
235. Indeed, the claimant appeared to suggest in evidence that she was treated differently from the start of her employment at PMHS, giving the example of being excluded from the biology teachers whatsapp group for about a year until she asked to be included.
236. We noted, particularly from the evidence of Mr Long and Ms Gibson, that the claimant had however apparently initially enjoyed good relationships with colleagues. Such initial relations betray no suggestion that the claimant was treated from the outset differently or negatively because of her race or religion given, as she herself stressed, that she was visibly different. We also noted that she said in evidence that she had changed her style of dress in 2021 but others did not notice.
237. Nor did we accept that there was a change in the behaviour of colleagues subsequently for the differing reasons the claimant asserts. In paragraph 18 of the particulars of claim, the claimant states that she believes that the incidents upon which she relies to found her claim from the start of the school session in August 2022 were triggered by her multi-cultural/faith work linked primarily to her involvement in BRL. She asserts that some staff resisted this work and her leadership in this area. But as noted above during the hearing the claimant relied on incidents which occurred before that. In particular, the claimant referred in evidence to incidents which she says occurred in 2021 and prior to that. She lodged, and in some cases referred to, documents relating to incidents which had occurred prior to the dates of these allegations, as noted above. Further, the claimant was confused in regard to at least two incidents about whether they occurred in 2022 or 2021, for example the biology discussion on the in-service day, and when Mr Long had the discussion about alcohol. In short, the evidence does not support her contention that treatment of her changed after she became involved in the BRL programme.
238. We also take into account the fact that the claimant did not suggest to any individual teacher (or the faculty head) that she considered their conduct towards her to be because of her race and/or religion, that she did not raise concerns informally until October 2022, and formally until June 2023.
239. In the grievance lodged 7 June 2023, she states that she had become the target of microaggressions after she had raised her informal concerns about the AOC book incident (which was in September 2022).
240. None of these potential catalysts for any discriminatory treatment was however stressed by the claimant in evidence or submissions and in any event the claimant's evidence overall tends to contradict her claim that the reason for a change in her treatment was to

do with her involvement in multi-cultural initiatives, or because she raised concerns about the AOC incident.

241. It should be noted too that the claimant sought to make reference to events which took place prior to her coming to PMHS. She suggested that she had never had cause to raise a grievance, although the first respondent disputed that, and indeed she makes reference in her submissions about Ms Chisholm having dealt with harassment claims in her previous school. We did not however consider that to be relevant. She sought to refer to good references from previous schools, and which, as we understood it, she intended to rely on to support her contention that there was a conspiracy against her, that she was wrongly being painted in a bad light by her colleagues, and that treatment of her at PMHS must therefore be because of her race and/or religion. As noted above, the claimant did not appear to appreciate that the focus of this claim is on the actions of the respondents and has nothing to do with whether or not she is a good teacher.
242. We turn now to the task of applying the relevant law to the findings in fact, considering each of the issues listed in turn.

Section 13 claim – direct race and/or religious discrimination

243. Section 13(1) of the Equality Act 2010 states that a person discriminates against another because of a protected characteristic if the person treats the other less favourably than they treat or would treat others. Section 23 states that there must be no material difference between the circumstances of each case.
244. Thus in order to establish direct race and/or religious discrimination, a claimant requires to show less favourable treatment in comparison with others who do not share her race or ethnicity and/or religion. In this case, the claimant relies on both her race (Pakistani) and her religion (Islam) to found her claim.
245. In making that assessment, the claimant will usually require to point if not to an actual then to a hypothetical comparator in the same material circumstances as the claimant, as has been established for example in the case of *Shamoon v RUC* 2003 UKHL 11.
246. The claimant has set out, in the list of issues, a long list of comparators whom she argues are in the same or similar circumstances but who were treated more favourably. We accept broadly that the claimant was not in the same or similar circumstances to any of the actual comparators whom she cites, that is none of her comparators behaved in the way that the claimant did. She relies in any event on a hypothetical, white and/or non-Muslim or non-Pakistani national and/or non-Pakistani ethnic origin colleagues.
247. Further and in any event, the claimant must also establish a causative link between the protected characteristic and any less favourable treatment. While this is a two stage test,

it is often appropriate to focus on “the reason why” the employer acted as they did (see in particular *Shamoon v RUC*), which may answer the question whether there was less favourable treatment without the need to focus on comparators.

248. As this is not an inherent case (per *James v Eastleigh Borough Council* 1990 IRLR 288), the Tribunal requires to consider the mental processes (whether conscious or unconscious) to assess why the alleged discriminator acted the way that they did.
249. While the relevant protected characteristic needs to be a cause, it does not require to be the only or even the main cause (*Owen and Briggs v James* 1982 IRLR 616) but must have a significant influence on the outcome (*Nagarajan v London Regional Transport* 1999 ICR 877).
250. The fact that a claimant believes they have been less favourably treated is not sufficient, because the test is an objective one (*Burnett v West Birmingham Health Authority* 1996 IRLR 7).
251. It has long been recognised that, although the burden of proving discrimination rests with the claimant, the information which might prove that is likely to be in the hands of the respondent, and since they are unlikely to admit discrimination (even to themselves), it can be difficult for claimants to prove discrimination. For that reason, the concept of the shifting burden of proof was introduced.
252. Section 136 of the Equality Act 2010 states that “if there are facts from which the court could decide, in the absence of any other explanation, that a person contravened the provision concerned, the court must hold that the contravention occurred...but [that] does not apply if [the person] shows that [they] did not contravene [that] provision”.
253. It is not sufficient for a claimant to show simply less favourable treatment and a difference of race and/or religion. “Something more” than a mere finding of less favourable treatment compared with someone without the claimant’s protected characteristic is required before the burden of proof will shift (*Madarassy v Nomura International plc* 2007 ICR 867 CA). The “more” required need not be a great deal (*Denman v EHRC* 2010 EWCA Civ 1279).
254. However, a Tribunal will not always require to have resort to the burden of proof provisions. The Supreme Court in *Hewage v Grampian Health Board* [2012] UKSC 37 held that there is no need to consider the burden of proof provisions when the Tribunal can make positive findings on the evidence one way or the other.
255. With regard to the 81 incidents which the claimant relies on to support her claim for direct discrimination because of race or religion, we conclude that the claimant has failed to prove primary or secondary facts which would lead us to draw any inferences that there

was less favourable treatment or if there was that it was in any way related to the claimant's race or religion.

256. Broadly we do not accept that the claimant was less favourably treated at all, in any event we have chosen to focus on the "reason why" question per *Shamoon* even if we were to have accepted that there was less favourable treatment. Generally we have concluded (per *Hewage*), when considering each of the 81 detriments relied on, that the claimant's perception was misconceived, there being no evidence to support it, there being a perfectly plausible non-discriminatory explanation for the treatment which had nothing whatsoever to do with the claimant's race or religion. It will be clear in any event from the following conclusions that we do not find any facts, primary or secondary, which are capable of shifting the burden of proof. The key conclusion, in short, was that there were no "Madarassy factors", that is the "something more" needed to shift the burden of proof and to prove discrimination was not established.
257. The claimant stressed during the hearing and in submissions that these individual incidents form a pattern of behaviour or a "toxic culture of behaviours" which support her argument that she was discriminated against because of her race and or religion. Certainly, as noted above, even if we had accepted that the vast majority of the incidents did happen as the claimant described, there was no evidence to support any inference that the reason for any individual act was the claimant's race and/or religion. As we understood her argument, the claimant seeks to prove that her colleagues discriminated against her as a response to her activities around anti-racism and multi-culturalism and that looked at overall/in the round, cumulatively this treatment establishes a pattern of behaviour which supports the conclusion that she was treated less favourably because of her race and/or religion. While we do accept that in certain circumstances a series of microaggressions or behaviours considered cumulatively might support inferences of discrimination, as will be clear from our conclusions, we did not accept that it could be said, looking at these incidents cumulatively, or "in the round", or "stepping back" as the claimant urged, that there was any pattern of behaviour. That is essentially because there were no facts from which to draw inferences that the claimant's race and/or religion might be the catalyst for any conduct. Put simply, there was no foundation whatsoever for the claimant's suspicions that treatment of her was because of her race and/or religion. It is not possible to extrapolate, as the claimant submits, from any less favourable treatment, that it was because of her race and/or religion. She repeated frequently that she "believed" or "felt" that conduct was due to her race or religion, but her conclusion to that effect is simply a non sequitur. As discussed above, the claimant makes accusations against a very large number of individuals, a group of whom would have to have been acting in concert, and who would have had to have influenced others to treat her in the ways alleged because of her race and/or religion. There is no evidence to support such a conclusion.

258. Our specific conclusions in relation to each of the 81 allegations listed are as follows. For the avoidance of any doubt, to the extent that we find that they did occur, we find that none of the incidents, treatment, conduct or behaviour had anything to do with the claimant's race or religion, broadly because there was another perfectly plausible explanation for it. We have used the numbering from the list of issues.

2.1.1 20 January 2022 – Rachel Provan excluding the claimant from discussion about reorganisation of classes

259. The claimant was not excluded from a discussion about reorganisation of classes on 20 January 2022. Given the biology department was understaffed, the claimant not yet having arrived at school, Ms Provan looked for class cover and spoke to the first colleague she encountered, who was Mark Smith. The claimant arrived as they were discussing this and her offer to assist was accepted.

2.1.2 February 2022 – Rachel Provan and Kirsty Chiappa excluding the claimant from a biology discussion

260. The claimant was not, contrary to how she may have "felt", excluded from a discussion about biology classes in February 2022. Evidence heard suggested this incident occurred on an in-service day in February 2021, so that it does not form part of the facts relied on from January 2022. In any event, this was an ad hoc impromptu discussion about teaching resources which resulted in a departmental task list to be shared with all colleagues.

2.1.3 21 February 2022 – Mairi Lagan mocked the claimant for misinforming pupils about a test date

261. Ms Lagan did not mock the claimant for misinforming pupils about a test date on 21 February 2022. Any perception on the part of the claimant was mistaken. There was simply a misunderstanding on the part of Ms Lagan about the date their shared class had to sit a test. She had no reason to mock the claimant since she accepted she had been wrong.

2.1.4 Sometime before 23 February 2022, Peter Long not providing prelim papers to mark timeously

262. We did not accept that Mr Long had not provided the claimant with prelim papers to mark timeously. There was a perfectly plausible explanation given by Ms Provan regarding a short delay in passing the papers to the claimant to mark given she was teaching.

2.1.5 Sometime before 23 February 2022, Rachel Provan updating a topic the claimant was teaching without telling her whilst also micromanaging the claimant

263. The claimant was aware that Ms Provan had updated the inheritance topic. Ms Provan was unaware that the claimant was teaching ahead of the scheduled classes. The micromanagement allegation here appears to relate to Ms Provan's reasonable questions about why the claimant was ahead. We accepted Mr Long's evidence that Ms Provan did not micromanage the claimant, but treated all colleagues in a similar way.

2.1.6 27 April 2022 - Peter Long restricting development of a BGE Skills course to white members of staff

264. We did not accept that, because Mr Long had simply agreed with Ms Provan that she could roll out an initiative which she was involved in with her own class. He had also suggested to the claimant that if she was interested in assisting she should speak to Ms Provan. When Ms Provan got a project leader role, a request was made for volunteers to assist. The claimant did not volunteer at the DM but then complained about not being asked to assist.

2.1.7 28 April 2022 – Linda Gibson stating 'it has to be relevant' in relation to the claimant suggesting adding a link between anti-racism and UV light to the S1 course

265. While we accept that the claimant and Ms Gibson had a discussion regarding the claimant's suggestion of adding a link between anti-racism and UV light to the S1 course, Ms Gibson did not dismiss the suggestion out of hand but thought it more appropriate to be included in a different unit to that suggested by the claimant.

2.1.8 Unknown date around April 2022 – Peter Long being angry and aggressive in defence of BGE skills decision to the claimant

266. We accepted only that Mr Long was frustrated because the claimant had not put herself forward when volunteers were requested, and then berated him again for his management style.

2.1.9 4 May 2022 Rachel Provan and Peter Long causing the skills folder to become corrupted

267. As noted above, there was absolutely no substance to this allegation and no evidence, even from the claimant herself, beyond that fact that Mr Long is "good at IT", to support any suggestion that this was "deliberate". We accepted Mr Long's evidence that as faculty head he could simply advise the claimant that he did not wish to use her work.

2.1.10 9 May 2022 – Mairi Lagan intimidated the claimant during an interaction about resources

268. The claimant may well have felt intimidated (that being subjective) but if she did that was because she had read into the interaction motives which were simply not evident. The series of e-mails which the claimant sought to rely on to explain her rationale as the "main

teacher” were evidence only of a normal interaction between teachers, and irrelevant because there was no implied link to the claimant’s race and/or religion.

2.1.11 16 May 2022 – Linda Gibson laughing at the claimant

269. Likewise, the claimant took the conversation with Ms Gibson in entirely the wrong way and we find that Ms Gibson did not “laugh at” the claimant during this meeting. We find that Ms Gibson was trying to be helpful but that the claimant took umbrage at being told that interpersonal relationships are the responsibility of both parties and that it was apparent that she found it difficult to look beyond herself and her own experiences.

2.1.12 Unspecified date prior to 7 June 2022 – Alan Dick being cold to the claimant when she passed him at the school entrance

270. We heard evidence from Mr Dick that he was in the habit of greeting staff and six year pupils as they entered the school each morning. We do not accept that his practice changed in relation to the claimant. There was no other evidence to support such a change in behaviour beyond the claimant’s assertion. We heard evidence that Mr Long had not observed such behaviour and we accepted that such responses were “not in his personality” as Mr Long put it.

2.1.13 On 7 June 2022 – Peter Long’s allocating the claimant a bottom set higher class again

271. The evidence we heard about this issue was that Mr Long had not initially allocated the claimant a higher class because she had not taught higher before going to PMHS. He allocated classes on a variety of factors, including experience. He was aware of the claimant’s expectations and so latterly he allocated her a higher class. He was aware that it could be viewed as a challenging class. He did not accept that it was a “bottom” set.

2.1.14 21 June 2022 – The claimant being ignored by Fiona Keating, a probationer

272. Beyond the claimant’s assumption, we heard no evidence about the claimant being ignored by the probationer. Indeed, we heard that the probationer had complained about being ignored by the claimant. We agreed that this was an illustration of the claimant’s animus towards the probationer.

2.1.15 On 21 June 2022 – the claimant perceiving that Peter Long was taking the probationer’s version of events more seriously than her own

273. This seems to relate to the fact that Mr Long knew about the probationer’s allegations about her treatment by the claimant before the claimant had made the complaint to him, but beyond that there was no indication that he had preferred one version. The claimant wrongly appeared to be of the view that she should have “got the benefit of the doubt” because she was a qualified teacher.

2.1.16 June 2022 – Peter Long not providing the claimant with a PRD

274. While we have accepted that Mr Long did not conduct a PRD with the claimant in the school year 2021-22, we heard evidence from Ms Lagan and Ms Provan that they had not had a PRD for that year either. The claimant did have a PRD in June 2023. Mr Long's evidence was that he found it challenging to fit them in because of other work commitments, and gave priority to those members of staff who pressed for them to take place. We heard no evidence that the claimant had pressed for a meeting. We did not accept in any event that as a result of this omission or delay that the claimant lost opportunities for career progression, not least because of the other development opportunities in which the claimant was involved.

2.1.17 June 2022 – claimant discouraged by Alan Dick regarding CDD

275. We did not accept that there was any evidence to support the proposition that Mr Dick discouraged the claimant in regard to cultural diversity day. On the contrary, our view of the evidence was that he was very supportive. The fact that he suggested not approaching staff in June was because experience told him that given it was a busy time of year, she might not get such a good uptake; and even if he did not at the time say the same thing to Colin Chambers, the APT initiative was entirely different. This is a typical example of the claimant not respecting the advice of more experienced colleagues.

2.1.18 23 June 2022 – claimant experiencing isolation by the science department

276. The claimant may well have felt isolated but that was not because she was treated unprofessionally by colleagues in the science department. She seemed to assume that she had not been invited to end of term social events, but witnesses confirmed that none took place in the biology department. There was an open invite to the end of term event on 28 June 2022. Although witnesses gave evidence about the various reasons why they did not attend the claimant's alternative lunch, it was voluntary and therefore a matter of choice.

2.1.19 31 August 2022 – Laura Gardiner discussing nudity

277. We heard evidence that on or around 31 August 2022 Ms Gardiner had a conversation with a PE teacher about the TV programme Naked Attraction when body parts were discussed. The claimant also believes that there was a discussion about Ms Gardiner weighing her breasts, which Ms Gardiner believes related to an entirely different conversation about losing weight. The claimant was of the view that Ms Gardiner brought up the topic only when Mr Long came into the room. Mr Long recalls nothing of the conversation. The claimant recalls Mr Long looking at her making her uncomfortable. She did not raise concerns but left the room after lunch. The fact that Ms Gardiner recalls the

conversation but not the claimant being present led us to conclude that this was not directed at the claimant nor done to make her feel uncomfortable.

2.1.20 21 September 2022 – Tom Wadham stating that creationism was a baseless belief with no scientific evidence for it

2.1.21 22 September 2022 – Tom Wadham making comments to mock the belief in a creator

278. We did not accept that Tom Wadham stated this. We have found that he made knowledgeable comments about creationism relative to scientific evidence. We found his evidence to be measured and articulate and his comments about the book to be based on a reliance on scientific evidence. We accepted not only that he was not aware that the claimant believed in Creationism, but also that he did not discuss Creationism as a belief system and that he was not disrespectful of Creationism as a religious belief.

2.1.22 22 September 2022 – Barry McKenna laughed about the author being a pamphleteer

279. We have found that Barry McKenna found the description of the author as a pamphleteer amusing, but that was a comment without significance.

2.1.23 22 September 2022 – Peter Long and Mark Smith referring to the sexual abuse by the author of Atlas of Creation

280. We accept that such references were made following an internet search. There was no suggestion nor could there be that the claimant was being held to account for the author's conduct.

2.1.24 22 September 2022 – Julie Gillespie referring to the author having a lengthy prison sentence

281. This was ascertained following an internet search.

2.1.25 22 September 2022 – Peter Long suggesting the Atlas of Creation be used as a doorstep

282. Mr Long admitted saying this to underline the fact that such a book should not be in a school environment, a view which the claimant also apparently held. There was however no link or association made with the claimant.

2.1.26 22 September 2022 – Linda Gibson stating the book was 'disgraceful, promoted terrorism and was where it belonged in the bin' together with leaving the book cover on the desk

283. We have found that Ms Gibson did believe the book to be "disgraceful". She strenuously denied saying that it "promoted terrorism". She did however put the book in the recycling bin leaving the fabric cover on the desk. This was to underline her belief that such a book had no place in a school environment. There was nothing sinister about leaving the fabric

cover beyond that it was not appropriate to put it in a paper recycling bin. No link was drawn between the claimant and the book.

284. Crucially, contrary to the claimant's submission, we accepted the evidence of all present that they did not appreciate that the book contained a holy symbol and they did not appreciate that it was a book about Islam. Given cursory perusal of the book, there was no reason why they should link this with the claimant's religion. The claimant did not raise this at the time. We accepted that those present did not know that the author was Muslim. This was an example of daily staff room interaction, albeit that it related to an unusual book that members of staff might not expect to see in a science department.
285. We were concerned to hear that the book had been destroyed. We noted Mr McKenna say that he would not destroy any book and we noted that Mr Long intended to give further consideration to what to do with it.
286. Notwithstanding, we accepted that Ms Gibson had genuine concerns about the presence of such a book in a school, given she believed it to contain racist comments and had concerns about the author who was understood to be a convicted paedophile. Given her line of questioning, we understood that the claimant was also of the view that such a book should not be in the staffroom, apparently for child protection reasons.
287. To emphasise, we accept that none of this was directed at the claimant, and nothing was said or done "because of" the claimant's religion.

2.1.276 October 2022 – Alan Dick raising his voice, aggressive body language and saying 'I have given you lots of opportunities in this school Rabia'

288. We have found that Mr Dick did refer, during the meeting of 6 October 2022, to the fact that staff had raised concerns about racist statements against Black people in the book. It seems that the claimant takes issue with that because she could not find very many such statements in the book, and that she was not apparently aware of that until this meeting. We do not accept that Mr Dick raised his voice or displayed aggressive body language. We do find that Mr Dick stated to the claimant words to the effect that he had given the claimant lots of opportunities. It is clear from the evidence that Mr Dick had indeed supported and facilitated a number of opportunities for the claimant.

2.1.28 27 October 2022 – Laura Gardiner and Mairi Lagan discussion Salman Rushdie's Satanic Verses in the claimant's presence

289. We heard evidence, from Ms Gardiner and Ms Lagan in particular about this allegation, although their recollections differ. We have however found that there was a discussion in the claimant's presence about the Satanic Verses. The origin of that discussion was Ms Gardiner's request for recommendations for a book to download. Ms Lagan said that

following the assassination attempt on Salman Rushdie she had decided to read a sample of the book. She did not laugh about the circumstances. Neither knew what the book was about or that it had anything to do with any religion. Neither was involved in the AOC incident. There was no evidence that it was pre-planned and no evidence of any conspiracy to upset the claimant. We have found that when the claimant advised that it was a derogatory book about her faith the conversation on this topic ended.

2.1.29 November 2022 – Mhairi Taylor changing the workload of CDD

290. We heard evidence about changes that were made to cultural diversity day events. We noted that a whole school event is a major logistical challenge, and that Mr Dick decided to ask Ms Taylor (as the DHT assigned to S3) to assist the claimant in managing the event with a view to ensuring its success. Changes were made to the dates, which were due to the short notice announcement of a school inspection, and we accept that Ms Taylor had the claimant's best interests in mind when she decided to move the date again when the claimant had suffered a family bereavement. Changes were made to the logistics with perfectly plausible explanations based on the greater experience of Mr Dick and Ms Taylor in managing such events.
291. The claimant suggested in evidence that the appointment of Ms Taylor and the changes which were made were a deliberate attempt (following the meeting of 6 October) by Mr Dick to sabotage the event and make it look as if she had poor leadership skills. We were of the view that there was no evidence beyond the claimant's entirely misconceived beliefs to support such a conclusion.
292. We accepted Mr Dick's evidence that it would not be in his or the school's best interests for the event to be a failure. Despite the claimant claiming that Ms Taylor was to blame for the failings, Mr Dick was of the view that the day was broadly a success but was aware that there were some misunderstandings among staff about the planning and content of the day.

2.1.30 November 2022 – Laura Gardiner saying to the claimant that one of the staff had bought the biology wall materials from their own money

293. The claimant alleged that Ms Gardiner had "snapped" at her in answer to a question about materials for a display board. We accepted Ms Gardiner's evidence that she was simply answering a question which was asked. This was another example of the claimant reading an adverse reaction into perfectly normal interactions between colleagues.

2.1.31 November 2022 – Peter Long asking the Claimant 'Don't take this the wrong way but how big a family have you got'?

294. Mr Long admitted this but said in hindsight it was not the best choice of words. He was aware the claimant had recently suffered a previous bereavement which had greatly affected her and that she had a number of aunts and uncles who were not blood relatives. We accept that this was an innocuous question which might be suggestive of an interest in the claimant's welfare and whether she would need support at work. We did not accept that it was appropriate for the claimant to take offence, or that this necessarily suggested that Asian people have a big family, that Mr Long would not necessarily have asked others who had been recently to several funerals, or that he asked her this only because she is a certain race. We did not accept that could be read into that.

2.1.32 November 2022 – Rachel Provan advising the claimant in front of pupils about the redevelopment of S3 variation and inheritance booklets after she had started to teach the course

295. It is not clear what this allegation relates to because it appears to have occurred following a departmental meeting in 2021, and not 2022 as alleged. It also appears to be linked to 2.1.5 which was stated to happen in February 2022.

2.1.33 8 November 2022 – Barry McKenna approached the claimant and made comments regarding treatment of LGBT people at Qatar World Cup

296. The claimant's evidence was that she felt intimidated by a reference by Mr McKenna to the treatment of LGBT people. The claimant recalled that Mr McKenna had observed that she was unwell and offered her a chocolate. That was not Mr McKenna's recollection. Further, he "categorically denied" making any comments about LGBT people, which he said was not a topic he would raise in conversation at school. The claimant suggested this had something to do with Mr McKenna being frustrated at the changes around CDD, but he denied that, except in regard to the change of date for the inspection. There was no reason for the claimant to read anything negative into this innocuous conversation, even if the topic of LGBT rights in Qatar had come up.

2.1.34 23 November 2022 – Mhairi Taylor did not play an active role following up on tasks and communicated with others without informing the claimant

297. Ms Taylor was requested to assist the claimant as a member of SMT assigned to the relevant year group and was entitled to direct the claimant in regard to the project.

2.1.35 23 November 2022 – claimant receiving negative feedback from Tom Wadham

298. Mr Wadham gave evidence about an argument with the claimant when discussing feedback about his involvement in CDD, giving an honest account of his concerns in response to her queries. This was another example of the claimant being unable to accept any criticism.

2.1.36 24 November 2022 – Alan Dick not wishing to deal with the claimant's concerns

299. We did not accept that Mr Dick did not wish to deal with the claimant's concerns. We have found that Mr Dick explained his rationale to the claimant's union representative in an e-mail dated 21 November 2022, that he was not comfortable changing the scope of the investigation. This was also the advice of Ms Mullin. Mr Dick said in any event that he preferred to deal with the additional matters informally.

2.1.37 29 November 2022 - Mairi Lagan emailed staff re a festive activity, from which the claimant was excluded

300. We have found that no secret santa took place that year. This is yet another example where the claimant has jumped to a conclusion about her treatment with absolutely no foundation beyond seeing a hamper for Mairi Lagan which in fact related to a random act of kindness initiative in the school.

2.1.38 1 December 2022 – Laura Gardiner requested pupil folders from the claimant while she was teaching

301. We heard evidence about the standard practice of collating assessment folders for S3 pupils moving to S4 and forwarding them to the relevant class teacher. Ms Gardiner accepts she requested such folders while the claimant was teaching, but the reason for that was the claimant's delay in forwarding the folders. She "moaned" about this to Mr Long, who accepted her complaint about delay was legitimate. We concluded there was nothing untoward about this exchange. There is no rule that a teacher should not speak to another while the other is teaching.

2.1.39 December 2022 – Mairi Lagan asking with reference to the claimant's school 'Did that not used to be mainly white?'

302. The claimant recalls a discussion regarding high schools attended. Ms Lagan does not recall this discussion and states that she does not know what school the claimant went to. Ms Gardiner and Ms Provan recalled a discussion about schools but did not hear Ms Lagan ask that question.

2.1.40 December 2022 – Laura Gardiner asking the claimant whether she wanted to be included in the 'naughty and nice' Christmas door display

303. Ms Gardiner's evidence was that she had asked permission of all staff, including the claimant, to be included on her Christmas door display. We noted that Mark Smith had made a similar request in an e-mail. There was no substance to the claimant's view that this was an unusual request and made only to the claimant because of "sensitivities" or an assumption that she would complain.

2.1.41 Undefined date before Christmas 2022 - Alan Dick telling the claimant her development can't affect other projects

304. Mr Dick denied saying this, but we noted his positive response in an e-mail about involvement in other science events. We did not accept, even if this was said, that it was evidence of Mr Dick not supporting the claimant's development.

2.1.42 December 2022 – January 2023 – Linda Gibson saying 'good morning' to the claimant

305. The claimant gave evidence that Ms Gibson would repeatedly say "good morning" to her in a "very firm, very assertive manner". This she described as "micro-aggressions". This is another example of the claimant reading a negative motive into normal, everyday courtesies between colleagues. She believed this related to her complaints about the AOC incident and that Ms Gibson had destroyed the book to "provoke and intimidate her". We have found however that Ms Gibson was not aware initially that the book had anything to do with Islam.

2.1.43 Undefined date in 2022 and 2023 – Laura Gardiner communicated on behalf of others when the claimant asked for feedback

306. Ms Gardiner in evidence accepted that if a question was asked during a departmental meeting and there was a silence, she'd tend to answer, but she was not doing this with the purpose of speaking for others.

2.1.44 January 2023 – Kirsty Chiappa complaining to Peter Long about the claimant and printing

307. The claimant took issue in evidence with the fact that Ms Chiappa had complained to Mr Long about the claimant's enquiry regarding photocopying/printing the higher tests. Ms Chiappa said in evidence that she had mentioned this to Mr Long as a "moan" not a complaint, because it put her under pressure, whereas she volunteered with the photocopying to be helpful. Ironically perhaps the claimant complained in evidence that Ms Chiappa in complaining had "made a mountain out of a molehill". We found it to be an innocuous normal exchange in a busy department.

2.1.45 Sometime before 16 January 2023 – Biology staff not using s2 literacy/numeracy books claimant had authored

308. The claimant e-mailed Mr Long to complain about biology staff not using resources she had developed. Neither Ms Provan nor Ms Lagan taught S2 that year. These materials were in any event not part of the core curriculum and there was no obligation for others to use them. The claimant also complained about Ms Gardiner making changes to materials she had produced without her permission. Ms Gardiner's evidence was that she did use the claimant's materials and that colleagues would make changes to others' materials all the time. We found the claimant's complaint to be without substance.

2.1.46 16 January 2023 – Mairi Lagan having an angry facial expression and clenched fists when the claimant entered

309. Ms Lagan does not recall this and denies she would have acted in this way. It was not corroborated by others said to be present. This appears to be the claimant's misplaced perception and another example of a mistaken reading of body language. Ms Lagan's evidence was that by this time she was avoiding social interactions with the claimant without others present, precisely because she was concerned that the claimant may misinterpret any conversation.

2.1.47 23 January 2023 – Peter Long interrogating the claimant in front of pupils regarding her prelim marking

310. Mr Long accepted that he had spoken to the claimant while she was teaching, although pointed out that there was no rule that teachers should not be spoken to while teaching and in any event, there were only two pupils in the class. He was trying to ascertain when the claimant would be completed marking prelim papers because hers was the only marking outstanding, as he was perfectly entitled as a manager to do, and to advise that Ms Chiappa had offered to assist. As the claimant was not clear about the time frame, he followed up with an e-mail. He made a note of the conversation because from previous experience he was concerned about the claimant's reaction when he raised any concerns with her.

2.1.48 Unpleaded date – Peter Long disagreeing that he had treated the claimant unfairly

311. Mr Long sought to defend his actions at the restorative meeting but he apologised for becoming frustrated and walking away; and agreed not to speak to the claimant while she had pupils in the classroom.

2.1.49 Unpleaded date re Christmas night out – Peter Long stating “what’s wrong with drinking”

312. There appeared to be some dispute about whether this happened in December 2022 or December 2021. In any event, Mr Long admitted it and explained that he was trying to understand whether the claimant was or was not prepared to be in surroundings where alcohol was served, given not all colleagues who attend social events drink alcohol. We find that it was an innocuous question, designed to try to understand the claimant's position.

2.1.50 Unpleaded date – Rachel Provan claimed to develop higher home work when the claimant had done so already

313. Ms Provan's evidence was that she had revamped materials the claimant had produced. We accepted her evidence that she did not claim to have developed it, that everyone knew that it was the claimant's materials, and that she had simply adapted it, which was common practice.

2.1.51 Some point prior to 31 January 2023 – Laura Gardiner had told pupil regarding ‘controversy’ relating to marking

314. The claimant’s evidence was that a pupil asked her about the controversy relating to the marking, and that she was told about it by Ms Gardiner. We accepted that Ms Gardiner would not have told a pupil. The fact is that the claimant was behind with marking and had been spoken to about it by Mr Long, and pupils may well have become aware of that.

2.1.52 Unpleaded date prior to 21 February 2023 – Linda Gibson asking the claimant if she was praying in the toilet

315. Ms Gibson denies asking the claimant if she was praying in the toilet. The claimant’s evidence was that she had heard this from a colleague. Ms Gibson stated that she had spoken to the colleague about that, who said the claim was false.

2.1.53 21 February 2023, 20 March 2023, 18 April 2023 – Linda Gibson loitering outside the disabled toilet

316. We accepted Ms Gibson’s explanation in evidence about her involvement in the incident with the janitors on 21 February 2023. She states she has an awareness of the comings and goings in regard to that toilet because it is adjacent to her classroom. She was aware of the need to prioritise use by her disabled colleague. She denied “loitering” or noisily or impatiently waiting to use the toilet when the claimant was using it because her class room is so close. She said that she would never use the phrase “disabled toilet” and that she would go out of her way not to antagonise the claimant because at that time she was seeking a resolution following the AOC incident.

2.1.54 2 February 2023 – Mr Dick asking the claimant if she was praying in the toilet

317. The claimant complained to Mr Dick about “harassment” when she was using the accessible toilet. The claimant’s evidence was that she used the toilet for ablutions but that she would lock her classroom door for prayers. Mr Dick accepts that he asked the claimant whether she used the toilet to pray, but explained that he wanted to be sure that she had a safe space to pray.

2.1.55 Unspecified from Feb 2023 – claimant not being included in WhatsApp group

318. Evidence from various witnesses confirmed that there was no alternative biology department whatsapp group, so the claimant was not excluded from it. The claimant jumped to the conclusion, without evidence, that a photo she was shown from the school prom had been shared on an alternative biology department whatsapp group.

2.1.56 23 March 2023 and 3 May 2023 – Peter Long choosing other staff to share professional learning

319. Mr Long did not select the claimant to share her proposed active learning task because it was not sufficiently relevant, and he selected Rachel Provan and then Micheal Irwin because theirs were more relevant.

2.1.57 In March 2023, following a Biology meeting about Active Learning, Rachel Provan ignored the Claimant's calls to her to hear more about it

320. Ms Provan did not ignore the claimant, rather she did not hear her call her name.

2.1.58 March 2023 – John MacDonald not washing the claimant's beakers

321. Mr MacDonald provided a perfectly plausible explanation why he had refused to wash the claimant's beakers. This was a rationale he relied on to refuse to allow others to clean beakers in the dishwasher. The claimant did not agree with his rationale. The claimant had previously enjoyed a good relationship with Mr MacDonald (we heard she had brought him a gift from her last holiday). The claimant believed he had been infected by discussions with others and thereby encouraged to treat her less favourably. She was however wrong to assume that he helped everyone else but not her, or that he had been in any way influenced by picking up on tensions or the behaviour of others.

2.1.59 Around Easter 2023 – Laura Gardiner excluded the claimant from a social

322. The claimant again jumped to the conclusion, without substance, that others were attending a social event and she had been excluded, but there was another explanation for the conversation (that is that Mr Irwin had a spare ticket to the theatre so he asked Ms Gardiner).

2.1.60 17 May 2023 – Alan Dick making suggestions for improvement that were in the claimant's original plan; Indicated that she could not lead event well

323. This relates to a review meeting which Mr Dick had with the claimant following the cultural diversity day. The claimant's perception that she was being "set up to fail" has no foundation whatsoever. It is yet another example of the claimant taking a negative reading of standard interactions, and failing to accept any criticism of her work, even in the form of constructive feedback given by a very supportive head teacher. Even if some suggestions for improvement had been in the original plan, the claimant misinterpreted the interventions made and import of the review meeting. Any changes which were made by more experienced head teachers were to ensure the project was a success.

2.1.61 21 May 2023 – claimant was excluded from departmental collection by unpleaded persons

324. The claimant was not excluded from a collection in May 2023, since there was no collection. This is another example of the claimant coming to conclusions without any substantive evidence, beyond assumption and conjecture.

2.1.62 23 May 2023 – Laura Gardiner referencing a porn video having popped up on screen

325. Again the claimant has misconstrued a discussion with a student and Ms Gardiner. The reference was to a pop up of a woman in underwear (or a bikini) and served as advice to the student. We accept that there was no reference to “porn”.

2.1.63 23 May 2023 – John MacDonald referred to an example of ‘hardcore porn’

326. Mr MacDonald was not party to the above conversation (although did recall Ms Gardiner telling him at the time about the pop up). Mr MacDonald did not make any reference then or at any other time to “hardcore porn”.

2.1.64 24 May 2023 – John MacDonald not telling the Claimant that her food in the microwave had spilled over

327. While Mr MacDonald admitted he had said, when asked by the claimant why he had not told her about the spillage, “what did your last slave die of”, he said this in a jocular tone. There was nothing to be read into the fact that Mr MacDonald did not assist or made what some may consider to be an inappropriate comment.

2.1.65 24 May 2023 – Peter Long telling staff they should follow a different model of course progression

328. This is another misunderstanding on the part of the claimant, and evidences her lack appreciation that it is Mr Long’s prerogative, as faculty head, to decide which learning models are used. In any event, he gave a perfectly plausible explanation about why the bi-level model had its limitations in a large school.

2.1.66 Sometime after June 2023 – Linda Mullin informing Claimant that matters after 7 June that were not in her grievance would not be investigated

329. This seems to explain why the claimant lodged a second formal grievance, but has no significance beyond that.

2.1.67 8 June 2023 – Observation of the claimant by Nicola Maynes

330. This is another example of the claimant reading a negative into an innocuous situation. This was not a formal “observation”. It was a standard check up of Ms Mayne’s year group which included visiting two other classrooms. More to the point, we accepted Ms Maynes knew nothing of the grievance and that Mr Dick had only told HR about it.

2.1.68 8 June 2023 – Alan Dick visiting the claimant's classroom at the end of interval and leaving without communicating

331. Mr Dick does not recall visiting the claimant's room that day. He did however patrol the corridors very regularly to check on pupil engagement and behaviour, so may have walked past her room during routine observations. We therefore concluded that this had nothing to do with the fact that the claimant had, the previous day, lodged a grievance.

2.1.69 19 June 2023 – Peter Long telling the claimant that she must move rooms

332. There was a perfectly plausible and logical explanation for Mr Long, as faculty head, requiring that the claimant move rooms.

2.1.70 20 June 2023 – Alan Dick telling the claimant to get in touch with other schools

333. We find that there was a proposal by Mr Dick, supported by Ms O'Donnell, suggesting to the claimant that she could find out if she could attend Inclusion department classes in other schools. Mr Dick offered to contact other head teachers. The proposal was simply to assist the claimant in getting more experience in the area. Both Mr Dick, and particularly Ms O'Donnell on this issue, went out of their way to be supportive. Any curtailment of opportunities for development were down to the claimant's choices. The claimant could not know whether or not there was money in the school budget to pay for her to work Fridays at PHMS.

2.1.71 21 June 2023 – Linda Gibson approaching staff members, informing staff that the claimant had made a grievance against her

334. We accepted the evidence of Ms Gibson that she had no knowledge that meetings, about which she was apparently aware, related to a grievance lodged by the claimant against her, until she received the ET1. Accordingly, she could not tell others about the grievance.

2.1.72 Unspecified date in June 2023 – Linda Mullin directing the claimant to her union

335. We accept that there was good reason for Ms Mullin to direct the claimant to her union, which was in her best interests.

2.1.73 27 June 2023 – Alan Dick alluding to a grievance being made against him on the last day of school

336. The claimant got the impression, from references during a speech made by Mr Dick to pay tribute to a member of staff who was leaving, that he was alluding to the grievance she had lodged. Mr Dick denied this. No other witness supported that suggestion. We had to conclude that this was yet another example of the claimant making assumptions that references were being made to her, when others were not thinking about her at all.

2.1.74 31 August 2023 – Michell McCargo having no knowledge of the background of the claimant's complaints

2.1.75 31 August 2023 – Ms McCargo not being able to answer the claimant's questions

337. We did not accept that Ms McCargo had no knowledge of the background of the claimant's complaints. The investigation meeting was designed precisely to obtain further information about the grievance. It was not necessarily expected that the outcome would be a resolution of the grievance. It is not unusual for a decision to be made that a further investigation was required, particularly in the circumstances of this case. To the extent that Ms McCargo could not answer the claimant's questions, that is also not surprising because further investigation was necessary.

2.1.76 27 October 2023 – Felix Haggerty causing there to be inaccuracies in the minutes

338. We did not accept that Mr Haggerty "caused" there to be inaccuracies in the minutes of the grievance hearing. While there were a number of amendments accepted, given that the notes were not intended to be a verbatim account of the meeting, adjustments were perhaps to be expected. We understood that Mr Haggerty was generally prepared to accept the changes proposed by the claimant, and indeed even to accept additions made by the claimant which were apparently not discussed (for example the Isla Bryson comment). Ms Chisholm explained that while "additional information would not normally form part of any revision, Felix has confirmed that he is happy to accept the majority of your revisions as attached".

2.1.77 12 February 2024 – Elizabeth Chisholm informing the claimant that interviews had yet to take place

339. There was apparently a misunderstanding about the timing of the interviews. Although the claimant had been led to believe that other staff interviews would be conducted following her own investigation meeting, the claimant was subsequently advised that interviews had been put on hold. That was after advice had been sought of the first respondent's legal services department following the lodging of this employment tribunal claim.

340. Ms Chisholm explained that "Felix had hoped to conduct interviews following your investigation meeting however as indicated in my previous email, this had to be held, pending advice from our legal services in light of your external claims. I can confirm that the interviews which are still to be conducted are taking place on 20th February".

341. It is perhaps unfortunate that the respondent did not advise the claimant that the investigation had been put on hold. Then when she was told, there was apparently a misunderstanding about what "still to be conducted" meant, that is whether or not some

had been conducted or all were still to be conducted. The delay in conducting interview was however a result of the timing of the lodging of the claim in the employment tribunal.

2.1.78 9 February 2024 – Alan Dick denying that there was an error in the claimant’s reference

342. This was yet another misunderstanding on the part of the claimant. The claimant had received a reference upon request in March 2023. She was unhappy with the wording but Mr Dick, as is his prerogative, did not agree to change it. When the claimant asked for an updated reference in February 2024, Mr Dick then decided that he was prepared to change the wording. Confusion was caused by the failure to change the date on the updated reference. Nevertheless it was perfectly clear to us that this updated reference should have been dated March 2024.

343. It is entirely consistent with the claimant’s blinkered approach to her claim that she would make a highly inappropriate and indeed very serious allegation apparently without any reflection that Mr Dick had prepared the updated reference for the purpose of this hearing, which she maintained in submissions.

2.1.79 29 February 2024 – Fiona Keatings being allowed to return to school

344. Ms Keatings was working at the school on that date on a supply basis. The claimant suggests this was a deliberate attempt to intimidate her, but this is another example of the claimant believing that the actions of others were related to her.

2.1.80 29 February 2024- Alan Dick standing near a staircase near the science department

345. Mr Dick does not recall seeing the claimant in school on that date, although if he was seen by her, it was while he was patrolling the corridors. Like so many of the claimant’s allegations, even if he was, there is no evidence to support any inference which might be relied on by the claimant, beyond her own assumptions.

2.1.81 29 February 2024 – Peter Long attempting to speak to the claimant and then following her down the corridor

346. The claimant advised in her letter of resignation that she would “return the school’s laptop **by** my last day of employment on Thursday 29th February 2024”. She assumed that colleagues should know she would be attending that day although she was not specific about the day she would attend. Mr Long was surprised and concerned to see her. That related to welfare concerns of other members of staff in the biology department who were dealing with the impact of having employment tribunal proceedings served on them shortly prior to the claimant’s attendance. Mr Long had good cause to speak to the claimant and to follow her down the corridor.

Conclusion on direct discrimination claim

347. Accordingly, taking all these incidents individually and cumulatively, we are of the view that the claimant's claim for direct discrimination because of race or religion is not well-founded and therefore must be dismissed.

Section 19 – indirect race or religious discrimination

348. The claimant also relies on section 19 of the Equality Act 2010. This in essence states that a respondent will discriminate against a claimant where the respondent applies a PCP which is applied equally to those who do not share the claimant's protected characteristic; puts or would put those who share the claimant's protected characteristic at a particular disadvantage; puts the claimant at that disadvantage; and the respondent cannot show that the PCP is a proportionate means of achieving a legitimate aim.
349. In terms of the burden of proof, while it is for the respondent to show that any PCP is objectively justifiable, it is for the claimant to first establish the other elements of the test.
350. The respondents relied in particular on *Ishola v Transport for London* [2020] ICR 1204 quoting Simler LJ, "however widely and purposively the concept of a PCP is to be interpreted, it does not apply to every act of unfair treatment of a particular employee. That is not the mischief which the concept of indirect discrimination....[is] intended to address. If an employer unfairly treats an employee by an act or decision and neither direct discrimination nor disability related discrimination is made out because the act or decision was not done/made by reason of [another] relevant ground, it is artificial and wrong to seek to convert them by a process of abstraction into the application of a discriminatory PCP".
351. The claimant relies on three PCPs to support her claim of indirect discrimination because of race or religion.
352. The claimant argues that "interfering with or attempting to limit the claimant's ablutions and/or use of the disabled toilet and/or prioritising use of the accessible toilet for staff who do not share the race or religion of the claimant".
353. We agreed that this is not capable of amounting to a PCP because it is an allegation of targeting the claimant and is not of general application.
354. A PCP is a provision, criterion or practice applied to all which disproportionately disadvantages one group, here that would be those sharing the same race and/or the same religion as the claimant. It cannot be said that this is a PCP because the focus is on the claimant. As the claimant accepted in submissions, this is an allegation about treatment of the claimant as an individual (which if appropriate would be argued as direct discrimination).

355. Indirect discrimination relates to group disadvantage. There was no policy to limit the claimant's use of the toilet, and indeed there was no policy to prioritise its use for those who do not share the same race or religion of the claimant. To the extent that there was a policy, it was that the accessible toilet should be prioritised for disabled members of staff as a reasonable adjustment. The claimant fails at the first hurdle, that is she has failed to establish a PCP in regard to this accessible toilet.
356. The claimant also relies on the PCP of "arranging staff nights out to involve drinking alcohol". Even if it can be said that is a PCP, we do not accept that the evidence supports such a PCP. We did not accept that there was any such policy or practice of arranging staff nights out to involve alcohol. Such staff nights out as were arranged were not purposefully arranged to "involve drinking alcohol". We heard about staff nights out in restaurants and pubs, but that these were attended by staff who chose not to drink alcohol. We heard evidence that Ms Wimpenny arranged an event to include ten-pin bowling etc. We heard evidence that the claimant herself had sought to arrange a social event at the restaurant Mowgli which was not an alcohol-free event. The claimant has failed to establish group disadvantage, and in any event we accept that any such arrangements would be justifiable for the reasons advanced by the first respondent.
357. The claimant also relies on two linked PCPs, namely "ringfencing opportunities" and "selecting staff to lead areas on senior induction days from a group that excluded the claimant".
358. We agreed that the claimant has failed to establish that these are PCPs not least because these are complaints about alleged behaviour directed at the claimant as an individual, and not about group disadvantage. In any event, the evidence does not support such conclusions because we find that the claimant was given many development opportunities. Further and in any event, there was a plausible explanation why the claimant was not invited to work on the colours initiative, since she was not on the APT course at that time.
359. The claim for indirect discrimination is therefore not well-founded and is dismissed.

Section 26(1) Race and/or religion related harassment

360. Section 26(1) of the Equality Act states that a person harasses another if they engage in unwanted conduct related to a relevant protected characteristic and the conduct has the purpose or effect of violating that person's dignity or creating an intimidating hostile degrading humiliating or offensive environment.
361. Here the claimant apparently relies on all of the 81 acts listed to support her claim that she has been subjected to such unwanted conduct which was related to her race and/or religion.

362. Given our findings above that we do not accept that any of the conduct or behaviour on the part of any of the actors in this case was “related to” race or religion. While this has a broader reach than “because of”, largely for the reasons set out above which led us to conclude that the treatment relied on was not “because of” the claimant’s race and/or religion, we conclude that it was not “related to” the claimant’s race or religion.
363. That said, the claimant relied on three incidents in particular in her grievance lodged on 7 June 2023 which on the face of it may be said to be “related to” religion.
364. The first is the AOC incident. We heard evidence that in terms of content this could be said to be a book about religion, that the author is Muslim, and that the book contains on its cover the holy seal of the Prophet Muhammad. To that extent, treatment of this book could be said to be conduct “related to” religion.
365. The claimant submits that she felt harassed and intimidated as this was unwanted conduct. However we have concluded for the following reasons that the conduct was not “related to” religion.
366. We have found that none of the staff involved was aware a) that the author of the book was Muslim; b) that creationist beliefs had any particular link with Islam and c) that the Arabic writing or symbol on the book was a holy symbol. The actions of staff involved all related to the fact that a book about creationism should not be in the school, since the subject is not taught in the science department; included what were understood to be racist comments; and concerns about crimes committed by the author. For that reason, we conclude this was not conduct which was “related to” religion.
367. Even if it could be said that this was unwanted conduct which was related to religion, and which had the proscribed effect on the claimant, given our findings we did not accept that it had that purpose. We considered whether it was reasonable for the conduct to have that effect on the claimant.
368. The respondents relied on *Richmond Pharmacology v Dhaliwal* 2009 IRLR 336 and the dicta of Underhill J to stress that “dignity is not necessarily violated by things said or done which are trivial or transitory, particularly if it should have been clear that any offence was unintended...it is important not to encourage a culture of hypersensitivity or the imposition of legal liability in respect of every unfortunate phrase”. They rely too on *Grant v HM Land Registry* [2022] IRLR 748 and dicta of Elias LJ that “when assessing the effect of a remark, the context in which it is given is always highly material....it is not importing intent into the concept of effect to say that intent will generally be relevant to assessing effect. It will also be relevant to decide whether the response of the alleged victim is reasonable”.
369. In all the circumstances of this case, even if we had found that there was unwanted conduct related to religion having the proscribed effect, we consider that it was

unreasonable for the claimant to say that it had that effect in the particular circumstances. That is because, as noted above, none of the conduct was directed at the claimant, some actors were not even aware that the claimant was in the room, and there were a number of other reasons to explain concerns about the presence of the book in the staffroom, since its subject matter was not taught in school and the author had been convicted of crimes against children.

370. The second incident is the discussion about Satanic Verses. Again neither of the staff directly involved knew that it was a book about religion. Even if it could be said that raising this matter was unwarranted conduct related to religion which made the claimant feel uncomfortable, it was not reasonable for her to conclude that it had the proscribed effect, particularly when the subject was dropped when she raised her concerns.
371. The claimant also relied (in her grievance) on a reference by Mr McKenna to Qatar's treatment of LGBT people. If this could be said to be "related to" religion, given the state religion of Qatar is Islam, and if it was in fact said, we did not accept that any offence taken by the claimant would have been reasonable.
372. The claimant's claim for harassment must therefore be dismissed.

Section 27 - Victimisation

373. Section of the Equality Act 2010, headed up victimisation, states that "A person (A) victimises another person (B) if A subjects B to a detriment because (a) B does a protected act, or (b) A believes that B has done, or may do, a protected act". Protected acts include "Bringing proceedings under this Act" and "doing any other thing for the purposes of or in connection with this Act".
374. Thus victimisation will be made out when a claimant can show that, having done a protected act, they suffered a detriment because of that protected act, that is there is a causal link between the act done and the detriment suffered.
375. In this case, the respondents admitted the following protected acts:
- Providing a statement to Pauline Crean (in November 2022);
 - Meeting with and making disclosures to Linda Mullin (February 2023);
 - Lodging the grievance (in June 2023); and
 - Submitting second grievance to Steven Quinn (in August 2023).
376. The claimant also alleged that raising the concerns she did to Alan Dick amounted to a protected act, but the respondents denied that.
377. We considered first whether the interactions with Mr Dick could be said to amount to a protected act. That phrase should be given a wide interpretation, confirmed most recently

in *Kokomane v Boots Management Services Ltd* 2025 EAT 38. In that case the EAT confirmed that the allegation need not state explicitly that an act of discrimination has occurred. The only requirement is that facts are asserted which are capable in law of amounting to an act of discrimination. The context is important.

378. Giving a broad interpretation of “protected act”, we noted that on 6 October 2022, the claimant and her trade union representative, Claire McInnes, met with Mr Dick about the AOC incident. At that meeting, Mr Dick noted that the claimant had raised concerns about the timing of the incident and linked it to her recent work on multicultural events across the school and that the claimant said that the symbol on the book was the Seal of the Holy Prophet Muhammad which is a sacred symbol of Islam; that the claimant described her upset at the book being put in the bin. On that basis, it has to be said that such an allegation is capable of amounting to an act of discrimination. Subsequently, the claimant had copied Mr Dick into an e-mail to Pauline Crean on 10 November 2022, alleging “covert Islamophobia in school” and feeling unsafe. The claimant’s union representative in an email to Mr Dick on 17 November 2022 expressed concern about these “incidents and comments which feed into the way Rabia feels in her department due to her faith characteristic of being a Muslim woman”. In context, we accepted that the reporting of concerns from 6 October 2022 to Mr Dick amounted to a protected act.
379. We then considered paragraph 12 of the list of issues which listed the alleged detriments which the claimant said she had suffered because of these protected acts. We considered whether there was the necessary causal link.
380. On the question whether the claimant had suffered “detriment”, while it is not defined, it is given a broad interpretation. According to the EHRC Employment Code (paras 9.8 and 9.9), “Generally, a detriment is anything which the individual concerned might reasonably consider changed their position for the worse or put them at a disadvantage.....There is no need to demonstrate physical or economic consequences. However, an unjustified sense of grievance alone would not be enough to establish detriment.”
381. We considered whether the claimant was subjected to the detriments alleged set out at paragraph 12 because of these protected acts. We have found that largely these do not amount to detriments, but rather an unjustified sense of grievance, and in any event could not be said to be done “because of” the protected acts.
382. The respondents urged the Tribunal to take account of the fact that the claimant has difficult interactions with people and that this was the case prior to any protected act, which is a more likely and plausible explanation for an event than a protected act. Further, on the claimant’s own case, she has been subjected to multiple detriments long before any protected act on her part. We accepted that submission.
383. We turn now to consider each of the alleged detriments in turn.

12.1 6 October 2022 – Alan Dick stating there were racist statements against Black people in the book

384. While we have accepted that Mr Dick did state that there were racist statements against Black people in the AOC book, we have not accepted that there was a “protected act” prior to 6 October 2022. Further, we did not accept that this could amount to a detriment or disadvantage to the claimant.

12.2 6 October 2022 – Alan Dick stating to the Claimant ‘I have given you lots of opportunities in the school Rabia’.

385. While we have accepted that Mr Dick did say to the claimant that she had been given lots of opportunities, we find no protected act before 6 October 2022, and further that is simply a statement of a fact which was supported by the evidence.

12.3 24 November 2022 – Alan Dick not wishing to deal with claimant’s concerns

386. The claimant alleges that because she raised concerns about her treatment, when she alleged covert Islamophobia, Mr Dick did not “wish” to deal with her concerns. To the extent that any failure was a detriment, we did not consider that Mr Dick’s decision was because of the protected act. We have found that Mr Dick explained his rationale to the claimant’s union representative in an e-mail dated 21 November 2022, which was that the Crean investigation was nearing completion and he was not comfortable extending its scope at that point in time, but that he would follow up the claimant’s complaints, ideally informally, and then liaised with Ms Mullin.

12.4 From 29 November 2022 – Mairi Lagan excluding the claimant

387. The claimant came to believe that she was excluded from a secret santa event. We have found that there could be no exclusion because it did not happen. In any event, it could not be “because of” any protected acts prior to 29 November 2022, because Ms Lagan did not know about the Crean investigation at that point in time or any allegations of discrimination.

12.5 1 December 2022 – Laura Gardiner requested pupil folders from the claimant while she was teaching

388. We have found that it is standard practice to forward assessment folders from S3 to teachers who have these pupils in S4 and that Ms Gardiner did request pupil folders while she was teaching because this was outstanding. She raised this with Mr Long. There was no detriment, but even if this could be categorised as a detriment, we find that it was not “because of” any of the protected acts, because Mr Dick had not told Ms Gardiner about the claimant’s discrimination allegations (and she was not involved in the AOC incident).

12.6 December 2022 – Laura Gardiner asking the claimant whether she wanted to be included in the ‘naughty and nice’ Christmas door display

389. We have found that Ms Gardiner did ask the claimant whether she wanted to be included in the Christmas door display, but we have found that a) this was not an uncommon practice, and b) she asked all her colleagues. We conclude that this does not amount to a detriment but in any event she was not aware of the investigation or any allegation of discrimination, as above.

12.7 December 2022 – January 2023 – Linda Gibson saying ‘good morning’ to the claimant

390. We have found that Ms Gibson did repeat “good morning” to the claimant in the circumstances she described, but that it could not be said to have the negative connotations suggested by the claimant. Accordingly we conclude that this is not a detriment.

12.8 16 January 2023 – Mairi Lagan having an angry facial expression and clenched fists when the claimant entered

391. We did not accept that Ms Lagan acted as the claimant perceived.

12.9 21 February 2023, 20 March 2023, 18 April 2023 – Linda Gibson loitering outside the disabled toilet

392. We did not accept that Ms Gibson “loitered” outside the accessible toilet. To the extent that Ms Gibson spent any time outside the disabled toilet, we have found that was either because she was waiting to use it, or because she was assisting facilities management staff. We do not accept that this could be categorised as a detriment.

12.10 From February 2023 – claimant being excluded from WhatsApp group

393. We have found that the claimant was not excluded from any Whatsapp group.

12.11 Failing to progress complaints following claimant’s meeting with Linda Mullin on 16 February 2023

394. This cannot be properly said to be “because of” the protected acts. The protected acts relied on were the complaints. In any event, we did not accept that there was any failure to progress complaints, because it was the claimant who failed to follow up Ms Mullin’s suggestions.

12.12 Around Easter 2023 – Laura Gardiner excluded the claimant from a social

395. We have found that the claimant was not excluded from any social event.

12.13 21 May 2023 – claimant was excluded from departmental collection by unpleaded persons

396. We have found that there was no departmental collection.

12.14 On 8 June 2023 Nicola Maynes observing the Claimant and Alan Dick standing in the doorway

397. We have found that Ms Maynes was not undertaking any observation of the claimant; and that Mr Dick did not stand in her doorway. It is difficult in any event to see how these could properly be categorised as “detriments”. More to the point, Ms Maynes was not aware of the fact that the claimant had lodged a grievance.

12.15 19 June 2023 – Peter Long telling the Claimant she must move room

398. We have found that it was appropriate for Mr Long to require the claimant to move rooms. To the extent that this was a detriment, it was not because of any protected act. Mr Long did not know about the grievance. Rather it was because the classroom was separate from the rest of the biology department and was intended to be used for chemistry.

12.16 Sometime prior to 21 June 2023 – Linda Gibson telling members of staff that a grievance had been made against her

399. We have found that Ms Gibson was not aware that a grievance had been made against her so could not advise others of that fact. This is corroborated by evidence of other witnesses.

12.17 27 June 2024 – Alan Dick referring to a grievance having been made against the claimant

400. We have found that Mr Dick did not allude to the claimant’s grievance in the leaving speech.

12.18 Alan Dick, Linda Mullin and/or Pauline Crean alleged failure or delay to deal with the claimant’s complaints about Islamophobia and harassment in September 2022, October 2022, November 2022, and February 2023.

401. It is not appropriate to categorise failure to deal with complaints, which are essentially the protected acts relied on, as detriments because of protected acts. In any event, any delay is not because the claimant complained, but is explained by the circumstances, as set out in the findings in fact.

12.19 Alan Dick in respect of failure or delay re claimants complaints of 1 February, 20 March, 18 April and 14 June 2023 about Linda Gibson’s interference with toilet use

402. We have found that Ms Gibson did not interfere with the claimant's toilet use. Again this appears to be a complaint about delay in dealing with the complaints which are the protected acts, and for the reasons stated cannot be said to be "because of" it.

12.20 Feeling socially isolated by members of staff including Laura Gardiner, Mairi Lagan, Rachel Provan, Peter Long, John MacDonald, Linda Gibson

403. We do not accept that there was any deliberate action on the part of any actor to cause the claimant to "feel" socially isolated. This cannot therefore be a detriment because of any protected act. We have found that staff did not know about the grievances lodged in any event.

12.21 Peter Long's alleged failure or delay to conduct the claimant's professional review and development (PRD) process in 2022 and 2023.

404. While we accept that Mr Long did not conduct a PRD in 2022, that was apparently before any protected act pleaded, and in any event we accepted Mr Long's explanation for the delay. We have found that a PRD was conducted in 2023 (apparently after the grievance was lodged, although Mr Long did not in any event know about that).

12.22 Alan Dick and / or Linda Mullin's alleged failure to investigate and / or progress the grievance of 7 June 2023 timeously

405. Likewise, this complaint, along with others of a similar nature, is more appropriately considered in regard to the claimant's claim for constructive unfair dismissal. In any event, given the findings in fact, as discussed further below, we did not accept that there was any failure in this regard.

12.23 The alleged failure to investigate and / or progress the claimant's complaint of 23 June 2023 to Linda Mullin about Linda Gibson timeously

406. We have found that Ms Mullin suggested to the claimant to refer complaints about Ms Gibson to her union. In any event, the claimant's complaints were considered as part of the investigation.

12.24 Elspeth Chisholm, Felix Haggerty, and Michelle McCargo allegedly failing to carry out the grievance procedure and / or investigation timeously

407. Likewise, this is about a delay in dealing with a complaint which is relied on as a protected act, so not properly categorised as a detriment because of a protected act, and is considered further below.

408. Accordingly, the claimant's claim for victimisation must be dismissed.

Section 26(2) – Sexual harassment

409. Section 26(2) of the Equality Act 2010 states that a person harasses another if that person engages in unwanted conduct of a sexual nature, and the conduct has the purpose or effect of violating the complainant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the complainant. No comparator is required to prove harassment.
410. In deciding whether the conduct has this effect, the Tribunal must take account of the claimant's perception and whether it is reasonable for the conduct to have had that effect as well as the other circumstances of the case. This includes both subjective and objective assessments.
411. The claimant relies on three incidents which she alleges amount to unwanted conduct of a sexual nature. The claimant sought to suggest that Ms Gardiner introduces topics with sexual inuendo especially when male colleagues are around. It was not clear how that might relate to the claims, but we did not accept that anyway because it was denied by Ms Gardiner and not corroborated by any other witness.

13.1 On 31 August 2022, Laura Gardiner allegedly discussing nudity in a TV programme

412. We have found that there was a staff discussion about the TV programme *Naked Attraction*, and a discussion about body parts related to the content of that programme. We have found this to be a normal everyday discussion about a TV programme. Ms Gardiner does not recall the claimant being there, so it cannot be said that it was directed at her. That is of course not fatal because accepting that the claimant was present, she says that this made her feel uncomfortable. We were prepared to accept that such a conversation could be said to be "of a sexual nature". Accepting then that this was unwanted conduct of a sexual nature which the claimant asserts violated her dignity, it is clear that was not the purpose of the conversation (not least because the claimant was not known to be present) even if it did have that effect.
413. Accepting that it did have that effect, we went on to consider the circumstances of the case, and the context as well as the claimant's perception. We have concluded that this is a normal staff room conversation and we take the view that it was not reasonable for the claimant to have taken offence in the way that she claims she did.

13.2 On 23 or 25 May 2023 alleging that Laura Gardiner and John MacDonald made reference to porn

414. We have found that no such reference was made and that the reference was to a woman in underwear. If the claimant did take offence, it was not reasonable of her to have done so.

13.3 *On 31 May 2023 Laura Gardiner allegedly referencing male genitals*

415. Although it does appear that there was a difference of opinion between Mr Irwin and Ms Gardiner over whether there was any innuendo in the comedy sketch referenced, we accepted Ms Gardiner's evidence that she did not actually make any direct reference to male genitals. There was no photograph of male genitals shown. Further and in any event, in context, this is a social discussion in a staffroom context, and the claimant was not in any way targeted. If the claimant took offence, it was not reasonable for her to have done so.
416. Accordingly, we conclude that the claimant's claims of sexual harassment do not succeed and must be dismissed.

Time bar

417. Given that we have found that the incidents relied on, either individually or cumulatively, do not support any finding of discrimination, there is no need to consider whether there is any link between them as there can be no continuing act of discrimination extending over a period.

Constructive unfair dismissal

418. The claimant in this case claims breach of contract supporting a claim for unfair constructive dismissal.
419. The law in relation to unfair dismissal is contained in the Employment Rights Act 1996 (ERA). Section 94(1) states that an employee has the right not to be unfairly dismissed by her employer. Section 95(1)(c) states that an employee is dismissed if the employee terminates the contract under which she is employed (with or without notice) in circumstances in which she is entitled to terminate it without notice by reason of the employer's conduct. This is commonly known as "constructive dismissal".
420. To succeed in a claim for constructive dismissal, the claimant must show that any breach is a fundamental breach going to the root of the contract, that is it is not a minor breach. The claimant relies on the allegations considered above to support her contention that there has been a breach of the implied term of mutual trust and confidence. When a breach of the mutual trust and confidence term is found, such a breach is however "inevitably fundamental" (*Morrow v Safeway Stores plc* 2002 IRLR 9 EAT).
421. When considering whether there has been a breach of the implied term of trust and confidence, the requirement is to consider whether, viewed objectively, the respondent's conduct, taken individually and cumulatively, was calculated, or if not, was likely, to destroy or seriously damage the relationship of trust and confidence between the employer and the employee, where there was no proper and reasonable cause for the

respondent's behaviour (*Mahmud v Bank of Credit and Commerce International SA* 1997 IRLR 462 HL).

422. In regard to a breach of that term, it might be that an individual incident is not sufficient to breach the implied term, but a series of incidents taken together and considered cumulatively could be sufficient to amount of a breach, where there was a last straw which, although minor, contributed to the overall breach (*Lewis v Motorworld Garages Ltd* 1985 IRLR 465 CA; *Waltham Forest v Omilaju* 2004 EWCA Civ 1493).
423. In this case the claimant relies on the last straw, namely that on 16 February 2024 she was informed by Ms Chisholm that the interviews for the grievance investigation which the first respondent said would take place after her interview had yet to take place. The claimant claims that this follows a series of incidents which either singly or taken together, amounts to treatment which was calculated or if not likely to destroy or seriously damage the relationship of trust and confidence.
424. In a claim for unfair constructive dismissal, the claimant must have resigned in response to the breach, and not for another reason. Where an employee continues working for any length of time without leaving, he will lose his right to claim breach of contract and will be regarded as having elected to affirm the contract (*Western Excavating Ltd v Sharp* 1978 IRLR 27).
425. We have considered each of the allegations made by the claimant in turn to determine whether the incidents were in themselves a breach of the implied term, or whether considered cumulatively there was a last straw and breach of the implied term. We also considered whether, even if it could be said that the implied term had been breached, the claimant had confirmed the contract by staying on in employment until she resigned in February 2024.
426. It should be said that if we had found those incidents to amount to discrimination then we would almost certainly have accepted that there was a breach of the implied term, but we have not. Nor did we accept that the claimant was discriminated against (or victimised) by any failure to act on her internal complaints. We have found that the respondent did act on her internal complaints and that any delay is explained by surrounding circumstances. We did not accept that there was a failure to investigate the complaints thoroughly, and in any event the claimant resigned before her grievance could be concluded.'
427. In regard to the claimant's complaint about not implementing training proposed, we have found that initially it was the claimant who did not follow up informal proposals regarding training. Further, it would be entirely appropriate given the circumstances of this case to consider anti-racist training as an outcome of the grievance, but the claimant resigned before that could be concluded.

428. In regard to dealing with the grievance, there were two matters which caused us to reflect which related to the respondent's conduct. The first related to the fact that when Ms Crean's investigation report was sent to HR, it apparently had no signature and no recommendation. None of the HR witnesses who gave evidence was able to say who added that information or when. While we found this puzzling, we did not consider it significant. The second related to the evidence of Ms Chisholm, who indicated that in her opinion there should have been an investigation first before the grievance hearing. It was apparent that the claimant did not know about either at the time, so this could not in any event be conduct which caused the claimant to lose trust in the respondent.
429. The claimant also made much of an assertion that Ms Mullin denied having cancelled a meeting and insisted the claimant had made that decision. It seemed to us that the e-mails lodged relating to the arrangements for meetings relating to mediation and grievances presented a slightly less clear picture (for example in the lead up to the e-mail dated 26 June 2023), but in any event the delay caused by the cancellation of the meeting was insignificant.
430. This is a claim against the first respondent only. The first respondent argues in regard to the time line that:

"in 2022, informal resolution of the claimant's complaint was attempted. That is provided for in the grievance policy. It is submitted that in broad terms, for the first half of 2023 the matter does not appear to be progressed by the claimant or her trade union. Linda Mullin wanted to know when the claimant wished the claim to be progressed. Mr Oley becomes involved and the discussion in June/July 2023 relates to whether mediation will take place. The first respondent is keen to facilitate mediation. An employer looking to do that cannot and should not be said to be acting 'without reasonable and proper cause'. Nor does it breach the implied term of trust and confidence. A grievance is followed by a further grievance adding more detail. The size and scope of the grievances are relevant context in terms of how long it takes to deal with things. This is in addition to the fact that liaising with the claimant can be a challenge. The first respondent was progressing those grievances. Michelle McCargo was appointed. She in turn was right to require Mr Haggerty to undertake investigatory interviews to resolve those grievances. The issuing of proceedings by the claimant inevitably added complexity to the process. More so, it was the nature of those proceedings, in a lengthy narrative format this it is submitted was difficult to follow, combined with the naming of individuals as named respondents and with the need for those individuals to be able to protect themselves including consideration being given, and advice taken, on how to obtain statements from witnesses for the purposes of the grievance who were also named respondents. The chronology also records the claimant having a period of ill health which had some impact on the progress of matters. The claimant's position in relation to Linda Gibson was that the claimant point blank refused to speak to Linda Gibson. That is not a fact that was communicated to Linda

Gibson at the time. The relevance of this is that the claimant is placing significant weight on the grievance for constructive dismissal purposes and yet this grievance would not in any way resolve this fundamental problem within the department. This was explored with the claimant in evidence and there was no satisfactory answer as to how this was in any way sustainable. Even if it were established that things were not done correctly, this is too low a bar for breaching trust and confidence. The conduct must be so serious as to be a breach of trust and confidence which is a fundamental breach, it is repudiatory conduct. It is artificial for so much weight to be placed on a grievance process that could not provide the claimant with what she ultimately wanted”.

431. We accept these submissions by the first respondent. In regard to the events leading up to the last straw, given the time line set out in further detail in the findings in fact. In particular, we heard no evidence that the claimant had made any effort to have any complaint progressed before the lodging of the first grievance on 7 June 2023. We noted in particular that both Mr Dick and Ms Mullin responded promptly when the claimant lodged her grievance. Although Ms Mullin was going on holiday the next day, attempts were made to arrange a hearing for before the end of term. There was also an attempt to facilitate mediation. The mediation was cancelled apparently because the claimant’s trade union was not prepared to proceed to the grievance without first attempting mediation. The claimant was uncomfortable with mediation and mediation was not pursued. This was confirmed by 21 July, when the claimant advised that she would resubmit her grievance. This it seems was to ensure that it covered additional matters post dating that which she had included in the grievance of 7 June. The updated grievance was submitted on 7 August and by 9 August Michelle McCargo had been appointed to hear the grievance and a grievance hearing had been set for 24 August. That was delayed until 31 August due to the claimant being ill. The claimant was told of the outcome of the hearing the very next day, and Felix Haggerty was appointed as the investigating officer apparently on that same day. The claimant was interviewed on 18 and 21 September 2023. Several days later, Mr Dick and Ms Crean were interviewed.
432. Crucially, the claimant lodged her first ET1 on 28 September 2023. This perhaps inevitably had the effect of delaying matters because the HR department needed advice from legal services as to whether it was appropriate to continue with the investigation interviews. This explains the delay in resuming the interviews until February 2024. The claimant was in any event ill during this period and that caused her to delay in communicating further with the respondent until 15 January 2024. There was a short delay in the respondent getting back to her, explained by the member of staff being on annual leave. The claimant had, understandably, believed that all of the other interviews would have been conducted by then. She was not aware, until she was told by Ms Chisholm, that they had been put on hold while they got legal advice about how to proceed in light of the ET1 claim. Ms Chisholm explained that to her. It is rather unfortunate that Ms Chisholm’s letter was not

as clear as it perhaps could have been. It seems the claimant misunderstood its terms and apparently thought that none of the interviews had taken place. There is no reason why the claimant should have assumed that the investigation interviews had been put on hold because she had lodged an ET1. It is unfortunate that the claimant was not advised that the investigation was put on hold sooner, but we did not consider that could be sufficient to breach trust and confidence. That however is what happened but in any event it is an entirely appropriate explanation for any delay, that it is a “reasonable and proper cause” for the delay.

433. However, at the point of her resignation, the claimant knew that the interviews would be conducted in the week of 20 February. Despite any misunderstanding, the fact that she believed that all interviews had been delayed until that time seems to make little difference to the reading of the circumstances. We do not agree that this was sufficient for the claimant to conclude that this was the last straw in a series of failings. We agreed with the first respondent that, “the fact that the claimant says she read the email in a different way at best means that there was ambiguity. If there was ambiguity it is best to resolve that ambiguity before taking the nuclear decision to end your employment would be to seek clarification”.
434. Further and in any event, whether she thought all interviews were outstanding, or just some of the interviews were outstanding, that makes no difference to the respondent’s rationale that the progress of the investigation was delayed because the claimant had lodged an ET1.
435. We could not therefore say that there was “no reasonable and proper cause” for the respondent’s behaviour, specifically for any apparent delays in dealing with the grievance. Crucially, the claimant did not wait for the outcome of the grievance and acted prematurely in resigning when she did.
436. Accordingly, we conclude that there was no breach of contract, and that there can be no dismissal, because the claimant was not entitled to terminate the contract in such circumstances. The claimant’s claim for constructive unfair dismissal must also be dismissed.